



January 2010

A MANAGEMENT REVIEW OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION

In this report, we describe how:

- The Unemployment Insurance (UI) Trust Fund lost almost \$1.2 billion over nine years and became insolvent. As of December 2009, there are 24 states whose UI Trust Funds are insolvent.
- Annual reports to the General Assembly provided no clear warnings of the impending insolvency, and ESC did not issue recommendations to protect the solvency as required by §41-29-280 and §41-29-290 of the S.C. Code of Laws.
- The current unemployment insurance tax structure is inequitable.
- Employees who were terminated for misconduct, illegal acts, or other offenses have been paid more than \$171 million in state unemployment benefits during the last three fiscal years.
- The agency's system for helping the unemployed obtain jobs could improve.
- In 2008, ESC stopped referring claimants for criminal prosecution who had fraudulently obtained unemployment benefits. Claimants defrauded the agency out of \$7.3 million in FY 08-09.
- Management and accountability reforms are needed.

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A MANAGEMENT REVIEW OF THE SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION

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Introduction

Audit Objectives

Members of the General Assembly requested the Legislative Audit Council to conduct a management review of the South Carolina Employment Security Commission (ESC).

Our objectives for this report were to:

- Provide a detailed accounting of the revenues and expenditures from the Unemployment Insurance Trust Fund since 2000.
- Determine the adequacy of the process for notifying state officials of the financial status of the Unemployment Insurance Trust Fund.
- Assess alternatives for maintaining the solvency of the Unemployment Insurance Trust Fund.
- Examine the unemployment eligibility benefit process for efficiency and compliance with law and agency policy.
- Evaluate the effectiveness of the Employment Security Commission's programs for assisting claimants in returning to work.

Scope and Methodology

The period of this review was generally FY 06-07 through FY 08-09 with consideration of earlier or later periods when relevant. Information used in this report was obtained from a variety of sources including:

- Interviews with ESC staff.
- ESC financial records and audited financial statements.
- State and federal laws.
- Unemployment Insurance Trust Fund Annual Assessment reports.
- U.S. Department of Labor publications.
- Claimant records.

Criteria used to measure performance included state laws, agency policies, United States Department of Labor guidance and practices in other states. We used several non-statistical samples, the results of which cannot be applied to the whole population. These samples are described in the audit report. We reviewed agency internal controls in several areas including unemployment benefit payments, collection of overpayments and claimant fraud. Our findings are detailed in the report.

When addressing some of our objectives, we relied on computer-generated data maintained by ESC. Where possible, we compared this data to other agency records, including audited financial statements, to determine its validity. When viewed in relation to other evidence, we believe the data used in this report is reliable.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The South Carolina Employment Security Commission was established in 1936. The agency has a two-fold purpose — to pay unemployment benefits and to find jobs for unemployed people. In doing so, the agency taxes state employers for payment of claims and administers the federally-funded programs to find people jobs. The agency has a workforce of approximately 1,200 with a central headquarters in Columbia and with public employment offices located in 36 counties, serving the entire state. The public employment offices or, One-Stops, handle all unemployment services, including filing initial unemployment claims, registering for work, receiving special services from such organizations as Vocational Rehabilitation, Veterans Services, etc. The agency also provides for electronic and telephonic filing of claims and electronic registering for work.

Initial Eligibility

S.C. Code §41-35-110 states that, in order for claimants to qualify for unemployment compensation, they must be registered for work, be able and available for work, and have been unemployed for a waiting period of one week. They also must be separated from their most recent employer through no fault of their own, and participate in reemployment services if they have been determined to likely exhaust their benefits.

A claimant may make an initial claim for unemployment compensation at a OneStop center using ESC's online system, may apply online at another location using the same system, may apply through ESC's telephone system, or may complete paper forms. The vast majority of claimants apply at OneStop centers.

The ESC worker first determines if the claimant qualifies monetarily. Claimants must qualify monetarily by having unemployment taxes paid on their behalf in four out of the last five yearly quarters. The worker then determines if the individual meets the other eligibility criteria to qualify for unemployment compensation.

Every claimant is required to register for work in ESC's job service computer system (JobLink) in order to receive unemployment compensation; the only exceptions are for out-of-state clients and "job-attached" clients (see p. 4). Claimants who fail to perform required actions (such as registering in JobLink or failing to show up for an appointment) have their unemployment benefits stopped by the creation of an "Issue" on the claimant's account. Each time the claimant tries to make a continuing claim for unemployment benefits, ESC's system informs the claimant that there is an "Issue" that must be cleared in order for the claimant to continue to receive unemployment benefits.

Also, the claimants are required to list their previous employers for the last 18 months when they make their initial unemployment claims. ESC staff then perform a fact-finding process whereby the claimant explains to ESC staff why he is no longer employed. The claimant's former employer then receives an automated letter which allows him to provide his version of events leading up to the unemployment of the claimant. If there is a dispute between the employer and former employee, ESC staff must make a determination as to whether the claimant is eligible for benefits. This determination can be appealed by either party.

Appeals

Appeals must be filed within ten days from the initial determination. Appeals from the initial determination are made to an appeals tribunal, also known as the lower authority. Decisions of the appeals tribunal may be appealed to the Employment Security Commission. Decisions of the Commission may be appealed to the Court of Common Pleas. Parties are to be notified of their right to appeal following the initial benefit determination. Parties are also to be notified of their right to further appeal following an appeals tribunal decision.

In calendar year 2008, the ESC received 17,574 lower authority appeals and 1,528 appeals to the Commission. The Commission reversed or modified 24% of appeals that it heard in calendar year 2008. Of those, 23% were reversed or modified in favor of the appellant claimant and 28% were reversed or modified in favor of the appellant employer. ESC does not track the number of cases that are completely reversed versus the number of cases that are partially reversed.

Continuing Eligibility

In order to continue receiving unemployment benefits, a claimant must contact ESC weekly by telephone or use ESC's online claim system and answer three questions:

- Did you work?
- Did you quit a job or were you dismissed from a job since you filed your claim?
- Were you able to work, available for work, and looking for work as instructed by the claims office?

In addition, claimants are required to actively seek work. State law requires that claimants make at least one job contact a week, though ESC may require additional contacts. Claimants are also required to periodically come into a local ESC office for an eligibility review.

Job-Attached Claims

Some claims are filed by employers on behalf of their employees. These employees are still "job-attached" to their employers and are not required to register for work in JobLink or perform any job search activities. For example, manufacturing plants often submit job-attached claims using the online claim system when they shut down for a few weeks for regular maintenance. These job-attached employees go back to work once the plant reopens. There is a six-week limit on job-attached claims. The first week of the allowable six weeks is a waiting week in which the employee would not receive an unemployment check.

Voluntary Quits

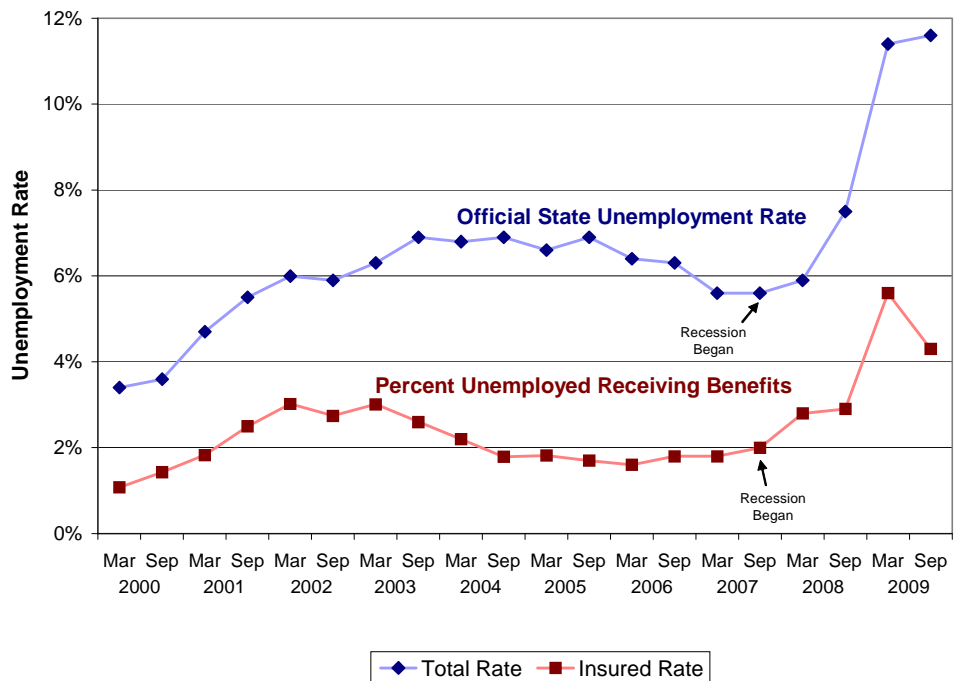
Under state law, employees who voluntarily quit their jobs are not eligible for unemployment benefits. However, under certain conditions, claimants who voluntarily quit their job may collect benefits. State law provides that a person who quits a job due to circumstances directly resulting from domestic abuse can collect benefits. Also, the spouse of a individual serving in the military may collect benefits, if the spouse is transferred to another duty station. Finally, if an employee quits for good cause, he may collect benefits. For example, if someone quits as a result of harassment on the job, or because he was asked to work under conditions detrimental to his health. An employer's experience rating is affected by benefits paid to employees who quit for good cause, but not by employees who quit as the result of domestic violence or military transfers.

There is no partial disqualification for voluntary quits, as there is for employees terminated for cause. If an employee who quit is found not eligible for benefits, then he will be disqualified from receiving any unemployment benefits. According to information provided by ESC, less than 4% of the employees who voluntarily quit collected benefits in the last three years. Between FY 06-07 and FY 07-09, employees who voluntarily quit were paid \$9.6 million in benefits.

Unemployment Rates

ESC measures our state's unemployment rate in two ways — the total unemployment rate and the insured unemployment rate, these rates are shown in Chart 1.1 from March 2000 through September 2009. The insured rate is the number of South Carolinians receiving unemployment benefits divided by the number of employees in South Carolina covered by unemployment insurance. The total unemployment rate is the number of South Carolinians out of work divided by the total civilian workforce.

Chart 1.1: S.C. Unemployment Rates, March 2000 Through September 2009



Source: ESC

Claimant Benefits

The maximum weekly benefit amount that claimants may collect in South Carolina is currently \$326. In addition, all claimants receive an additional \$25 per week from the American Recovery and Reinvestment Act of 2009. Claimants can currently qualify for up to 99 weeks of unemployment benefits. The 99 weeks are broken down in the following manner:

- 26 weeks of benefits paid by the state of South Carolina.
- 20 weeks of benefits under the federal Emergency Unemployment Compensation 2008 Act (EUC08).
- 13 weeks of additional EUC08 benefits triggered as a high unemployment rate state.
- 20 additional weeks under the Extended Benefits (EB) program.
- 20 additional weeks paid for by the federal government.

Currently, only the first 26 weeks of unemployment benefits are paid by unemployment taxes charged to South Carolina employers. The other 73 weeks are paid by the federal government.

Average Weeks and Benefit Amounts

The average number of weeks claimants spent on unemployment and their average weekly benefit amount for the last three fiscal years are listed below. Over the last three fiscal years, the average weekly benefit amount has increased while the average number of weeks claimants receive benefits has remained steady.

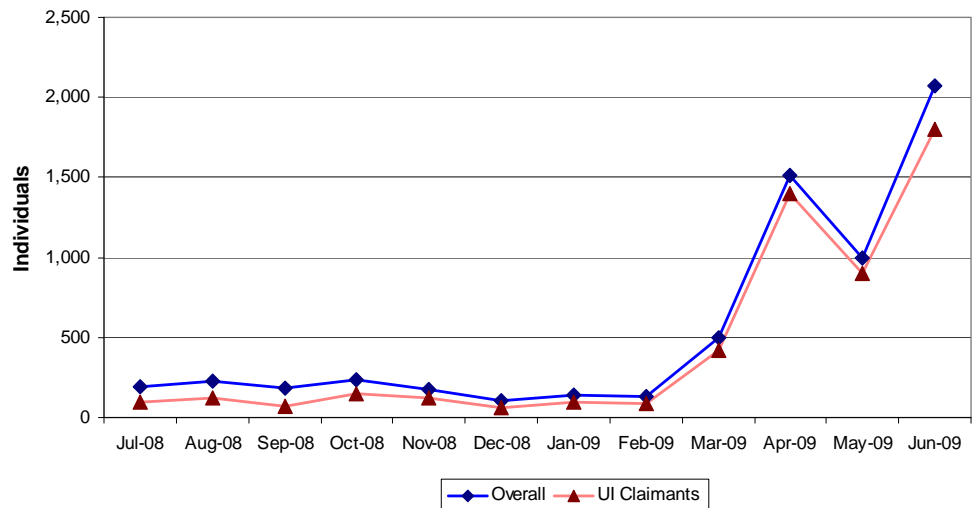
Table 1.2: Average Number of Weeks and Average Weekly Benefits for Claimants

FY 06-07	FY 07-08	FY 08-09
13.46	13.64	13.55
\$226.32	\$235.24	\$241.20

Source: ESC

Employment and Training Services

Chart 1.3: Number of Individuals Referred to Training, FY 08-09



Source: ESC

According to an agency official, the number of claimants and non-claimants referred to training increased in 2009 because ESC started placing a greater emphasis on training referrals. ESC staff were instructed to document referrals to training in JobLink to provide better data tracking of training referrals.

ESC employment services include applicant screening, job referral and placement, job development, referral to Workforce Investment Act (WIA) services, and referral to supportive services. ESC also organizes career fairs for job seekers. Finally, ESC can aid employers by furnishing current information regarding labor supply and demand and preparing job specifications.

Many of the employment and training services that ESC provides rely on its job service computer system called JobLink. Employers can post job orders on the JobLink computer system in two different ways. First, employers can perform a public posting, whereby any individual can view and apply for the posted job. Second, employers can let ESC post the job and screen individuals registered in JobLink against the job skills needed, so that the employer only receives individuals who are qualified for the job. ESC will also, if necessary, go to the work site and assist the employer with the job hiring process. However, ESC does not get directly involved in the interview process.

Workforce Investment Act

ESC also offers more intensive training services through the Workforce Investment Act program. The WIA program is run through the Department of Commerce (DOC) and funded by the federal government. The DOC passes the federal funding along to 12 regional workforce investment boards across the state. These 12 boards oversee the 12 WIA regions in the state and issue requests for proposals to organizations to manage the WIA services within the 12 regions. ESC is the manager of WIA services in 9 of the 12 WIA regions in the state.

ESC acts as a referral service for the WIA services to individuals it identifies as needing more intensive training. Most individuals referred to WIA receive money for training at technical colleges and receive certificates (such as a commercial drivers license, or CDL) or associate degrees. Individuals referred for WIA services have a two-year cap on the training they can receive and must meet income limit requirements. During this time, these individuals can continue to receive unemployment benefits and are not required to look for work if they are full-time students.

Table 1.4: Number of Individuals Referred to WIA Services by Fiscal Year

FY 06-07	FY 07-08	FY 08-09
4,385	15,152	62,465

Source: ESC

According to an agency official, the number of individuals referred to WIA services increased sharply from FY 06-07 to FY 08-09 because in FY 08-09 ESC started placing a greater emphasis on WIA referrals. ESC staff were also instructed to document referrals for WIA services in JobLink in order to provide better data tracking of actual WIA referral activity.

How the Trust Fund Became Insolvent and How Expenses Could Be Contained

In this chapter, we describe how the Employment Security Commission taxes businesses to pay for unemployment benefits, how the Unemployment Insurance (UI) Trust Fund became insolvent, and how the current tax structure is inequitable.

Unemployment Insurance Tax Structure

In 1936, the General Assembly created the South Carolina unemployment compensation fund, known as the Unemployment Insurance (UI) Trust Fund. The fund is designed to pay unemployment benefits to eligible unemployed workers in the state.

Unemployment insurance is a joint federal-state program financed by federal taxes under the Federal Unemployment Tax Act and by state payroll taxes under State Unemployment Tax Acts. The federal government maintains the federal unemployment trust fund in the United States Treasury which contains individual UI accounts for each state. Each state establishes its own state workforce agency to collect taxes, pay benefits, and find people jobs. In South Carolina, this agency is the Employment Security Commission. ESC employees are state employees but are federally funded for operational activities and expenses by the U.S. Department of Labor (DOL). The DOL also oversees state programs to ensure they are in compliance with federal laws.

How Businesses are Taxed to Pay Unemployment Benefits

Federal Tax

The Federal Unemployment Tax Act authorizes the Internal Revenue Service to collect an annual federal employer tax used to fund state workforce agencies. The federal tax covers the costs of administering the unemployment insurance and job service programs in all states. In addition, the federal tax pays one-half of the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits.

All employers are subject to a federal tax that is currently 6.2% of the first \$7,000 of taxable wages of employees. However, employers who pay the state unemployment tax on a timely basis receive a credit of up to 5.4% against the federal tax. Thus, the net federal tax rate is generally 0.8% (6.2% - 5.4%), for a maximum tax of \$56 per employee, per year ($0.008 \times \$7,000 = \56).

South Carolina State Tax

Each state sets its own unemployment insurance tax rate. South Carolina's trust fund is funded through taxes (also referred to as contributions) on liable employers. Taxes are paid on the first \$7,000 of taxable wages. Tax rates range from 0.54% to 5.4% depending on the employer's reserve ratio. Just over \$280 million in tax was generated for fiscal year ending June 2008. Approximately \$175 million in tax was posted for fiscal year ending June 2000.

Inherent in the insurance concept is the idea of pooling funds, in this case the UI taxes collected, in order to pay benefits. South Carolina uses a single tax table to determine an employer's base tax. Thus, the state does not differentiate among employers based on business size or type.

Experience Rating

All states use a system of experience rating in which an employer that lays off many workers who claim unemployment benefits will pay more in taxes than an employer that lays off few or no workers who claim benefits. However, very limited federal guidance governs how states are to implement the experience rating provision. Further, because unemployment programs serve as social insurance programs, it is generally recognized that some high-layoff employers may, over time, pay less in taxes than benefits paid to their former workers, while other employers may pay more.

South Carolina, like most other states, uses a reserve ratio experience rating formula. Each employer is taxed according to its reserve ratio. The reserve ratio is determined by taking the amount of taxes collected, less benefits paid, divided by the employer's total annual taxable wages for each business. The level of reserve ratio determines the business' tax rate. Employers with a positive reserve ratio of 9% or higher pay the lowest tax rate while employers with a negative ratio of 40% or lower pay the highest (see Table 2.1)

Approximately 89% of the employers have positive reserves and account for about 71% of the UI taxes collected while 11% of employers have a negative reserve balance and account for about 29% of the taxes collected in FY 05-06.

Table 2.1: Employer's Base Tax Rate in S.C. (Excludes Surcharge)

EMPLOYER'S RESERVE RATIO*	BASE TAX RATE
9% or More	0.54%
≥ 8% but < 9%	0.89%
≥ 7% but < 8%	1.24%
≥ 6% but < 7%	1.59%
≥ 5% but < 6%	1.94%
≥ 4% but < 5%	2.29%
< 4% but > -5%	2.64%
-5% but < -10%	2.99%
-10% but < -15%	3.34%
-15% but < -20%	3.69%
-20% but < -25%	4.04%
-25% but < -30%	4.39%
-30% but < -35%	4.74%
-35% but < -40%	5.09%
-40% or Less	5.40%

* The employer's reserve ratio is the total cumulative taxes paid less total cumulative benefits paid on behalf of the employer's workers receiving unemployment, divided by the most current annual taxable wages, expressed in a percentage of the wages.

Source: ESC and §41-31-50 of the S.C. Code of Laws

Tax Surcharge

State law also provides for a tax surcharge ranging from 0.1% to 0.7% depending on the balance of the UI trust fund as it relates to the statewide reserve ratio. The statewide reserve ratio is calculated by taking the balance in the UI trust fund as of June 30, plus July contributions, and dividing by the most current employer-reported total wages, for the twelve-month period ending September 30. The surcharge is triggered when the statewide reserve ratio falls below 2% and increases in increments of 0.1% (see Table 2.2). The surcharge has been at 0.7% since 2004. The surcharge, which adjusts the base tax rates, is calculated near the end of the calendar year for determining the next year's tax rate.

Because the surcharge is a flat rate, it has a disproportionate effect on employers who pay the lowest tax rate. For example, if the state's surcharge was not in effect, an employer with a reserve ratio of 9% has a tax rate of .54%. With the highest surcharge in effect, the tax rate becomes 1.24%, or an increase of 130%. Conversely, an employer at the highest tax rate of 5.4% has its taxes increased by 13% with the addition of the maximum surcharge.

**Table 2.2: Reserve Ratio with
Corresponding Surcharge Level**

STATEWIDE RESERVE RATIO*	SURCHARGE	YEAR SURCHARGE TRIGGERED
2.0% or More	0%	--
≥ 1.9% but < 2.0%	0.1%	--
≥ 1.8% but < 1.9%	0.2%	2002
≥ 1.7% but < 1.8%	0.3%	--
≥ 1.6% but < 1.7%	0.4%	--
≥ 1.5% but < 1.6%	0.5%	2003
≥ 1.4% but < 1.5%	0.6%	--
< 1.4%	0.7%	2004

* The statewide reserve ratio is computed in order to determine how much surcharge the employer pays during the next calendar year when the ratio drops below 2%. It is computed by taking the balance of the trust fund as of fiscal year end, plus July contributions and interest earned, divided by total wages reported by employers in the experience rated system for the twelve-month period ended September 30 of the same year.

Source: South Carolina Law and Annual Assessment Reports

Contingency Assessment

Under state law, ESC is allowed to collect a contingency assessment of six hundredths of one percent (0.06%) on employers to help fund agency operations. This assessment does not apply to employers who pay the highest tax rate. ESC has collected an average of approximately \$8.1 million through this assessment over the last three years.

Non-Profits and State Agencies

Under federal law, nonprofit companies and governmental agencies can choose to be exempt from UI taxes and instead reimburse the state for the UI benefits paid to employees. These entities essentially self-insure their unemployment costs. They are billed periodically by ESC for the benefits paid on behalf of their eligible employees. South Carolina state government self-insures and each agency pays a set amount to an account in the Comptroller General's Office. In 2008 the General Assembly transferred \$30 million from the S.C. state government self-insured fund to the state's general fund.

Tax Summary

Combining the federal and state tax, the maximum surcharge, and the contingency assessment results in a UI tax rate ranging from 2.1% to 6.9% on the first \$7,000 of taxable wages. Table 2.3 shows the amount of tax collected for employers at the lowest and highest tax rates. The first \$7,000 of employee wages are subject to both the federal and state tax.

Thus, for each eligible employee, an employer would pay between \$147 and \$483 in UI taxes *annually*, per employee, depending on its tax rate. By comparison, in FY 08-09 the average *weekly* benefit amount was \$241, per unemployed worker.

Table 2.3: Highest and Lowest UI Tax Rates Paid by Employers

TAX	TAX PAID BY EMPLOYER	
	LOWEST TAX RATE PER EMPLOYEE	HIGHEST TAX RATE PER EMPLOYEE
Federal Tax of .8%	\$56.00	\$56.00
State tax (.54% to 5.4%)*	\$37.80	\$378.00
Surcharge of .7% (highest in law) *	\$49.00	\$49.00
Contingency Assessment (.06%) **	\$4.20	\$0.00
TOTAL	\$147.00	\$483.00

* Funds collected can only be used to pay unemployment benefits.

**Contingency assessment not collected on employers at the highest tax rate.

Source: State and federal law

Ten-Year History of the Trust Fund

Prior to 2000, South Carolina law provided for four different UI tax rate tables (A through D). The tax to be applied each year was determined by the statewide reserve ratio. If the reserve ratio was 3.5% or greater, indicating the state had a large reserve of funds that could be used to pay benefits during an economic downturn, then the lowest tax table (Table A) was used. If the reserve ratio was less than 2.5%, then the highest tax rate table (Table D) was used. However, at no time between 1977 and 1999 was the statewide reserve ratio at or above 2.5%, meaning Table D, the highest tax rate table, was always in effect. Even though the reserve ratio did not exceed 2.5% in any year, South Carolina's reserve balance grew substantially between 1993 and 1999, reaching over \$776 million in FY 98-99.

In part because of this growth in the reserve balance, in FY 97-98 and FY 98-99, the General Assembly, through budget provisos, mandated that a lower tax rate table, Table B, be used rather than Table D which was required by state law. This resulted in \$71 million less in contributions. However,

even with the change in the tax table, the fund reached its highest reserve balance of \$835 million in 2000.

In 1999, the General Assembly enacted a permanent change to the UI tax rate. Instead of four tax rate tables whose use depended on the reserve ratio, the General Assembly enacted a single tax rate. The rate was equivalent to the original Table B, one of the lowest tax tables, and had the effect of lowering the tax rate. In addition, the law mandated that a tax surcharge ranging from 0.1% to 0.7% would go into effect, should the reserve ratio fall below 2%.

Reserve Levels

The purpose of the UI trust fund reserve is to have sufficient funds in the bank to pay unemployment benefits during an economic downturn, when benefits paid will likely exceed taxes collected. While the federal Department of Labor has suggested guidelines for reserves, each state is allowed to set its own reserve requirements.

States vary their reserve levels based on two different approaches to paying UI benefits. One approach is to have a higher reserve level in order to ensure that sufficient funds are on hand to pay benefits during an economic downturn. This is referred to as the “pay now” approach. This approach helps avoid fluctuations in the tax rate and helps increase the likelihood that a state’s trust fund will remain solvent during a recession.

The second approach is to maintain a lower reserve. This allows more money to remain in the economy where it can have a greater effect. However, it increases the likelihood that the trust fund will go insolvent during an economic downturn. This can result in the need to raise taxes to replenish the reserve at precisely the time when employers are facing the most economic difficulty.

According to ESC’s 1999 Trust Fund Assessment Report, an attempt was made to determine what constituted an adequate level of trust fund reserves. Prior to 2000, a 3.0% reserve level would have been required to implement Table B. However, the report concluded that a 2.0% level was sufficient. The ESC proposed a tax equivalent to table B, which would lower the tax and keep the reserve from growing and at about a 2.0% reserve level.

Reed Act

When federal payroll taxes nationally are in excess of statutory limits as set by federal law, Reed Act “distributions” are made to the states according to the provisions of the Social Security Act. Reed Act money may be appropriated by a state’s legislative joint resolution and used for financing its UI program and system of public employment offices.

In 2001 and 2002, South Carolina was notified that its share of the Reed Act distribution was just over \$109 million, and was available to the ESC. The South Carolina General Assembly passed a joint resolution in May of 2002 enabling the ESC to use approximately \$11 million of the distribution for purposes other than benefit payments. These funds were designated as follows: \$1.2 million for software upgrades, and the rest, approximately \$9.8 million, designated for land acquisition and construction costs for office expansion. The remaining Reed Act funds, approximately \$98 million, were spent on benefits as the trust fund declined.

How the Unemployment Insurance Trust Fund Became Insolvent

One of our audit objectives was to provide a detailed accounting of the revenues and expenditures of the Unemployment Insurance Trust Fund since 2000. Unemployment insurance programs rely on a forward-funded approach. Typically, the trust fund is replenished when tax payments exceed benefit payments during times of low unemployment. Conversely, trust funds can be significantly reduced or depleted during times of high unemployment because benefit payments exceed tax revenue.

The trust fund went from a balance of over \$800 million in 2000 to about \$8 million at the end of 2008. In ten years, the UI trust fund paid out \$1.2 billion more in benefits than it received in revenues. This required the state to borrow money from the federal government to pay federally-required benefits (of approximately \$17 to \$21 million weekly in 2009). Table 2.4 shows the UI trust fund balance for FY 98-99 through FY 08-09.

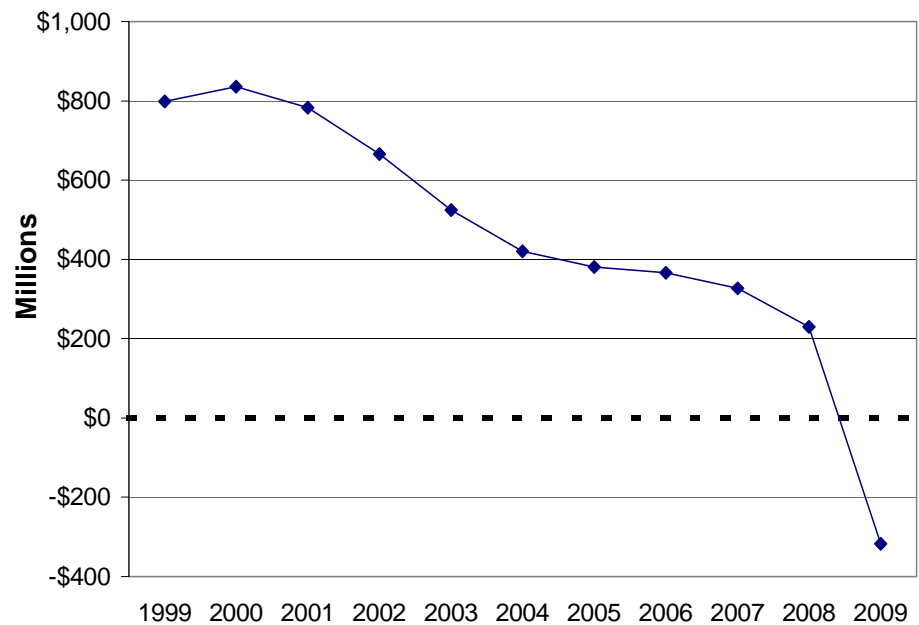
From June 2000 to June 2009, the UI trust fund lost \$1.2 billion.

**Table 2.4: UI Trust Fund Balance
(1999 Through 2009)**

UI TRUST FUND BALANCE	
6/30/99	\$798,931,615
6/30/00	\$835,436,018
6/30/01	\$783,127,019
6/30/02	\$666,017,227
6/30/03	\$524,147,836
6/30/04	\$420,680,629
6/30/05	\$380,743,147
6/30/06	\$366,115,753
6/30/07	\$326,779,113
6/30/08	\$229,006,482
6/30/09	(\$317,266,975)

Source: UI Trust Fund Audited Financial Statements

**Chart 2.5: UI Trust Fund Balance
(1999 Through 2009)**



Source: UI Trust Fund audited financial statements.

We found that the tax change in 1999 resulted in \$52 million more in revenue because of a surcharge provision.

In 1999, ESC supported legislation that lowered the reserve requirements and the tax rate. These changes were made with the intention to prevent the trust fund from accumulating additional reserves (beyond approximately \$800 million) because the reserve balance was increasing. Agency management has stated that one cause of the trust fund insolvency was the 1999 tax changes. Although the tax was lowered, the legislative changes included a tax surcharge that took effect when the reserve ratio decreased below recommended levels of 2.0%, the tax change resulted in \$52 million more in taxes than would have been collected under the old system. This is primarily the result of the surcharge being implemented, which resulted in additional taxes being collected each year the surcharge was at its highest level, with the majority of the revenue being collected beginning in 2004. However, if ESC had taken the appropriate steps to maintain the reserves required, before the economy entered a recession, the UI trust fund would not have gone insolvent in 2008.

Our review of the trust fund audited financial statements and other agency records indicates there are a number of reasons for the decline in the trust fund balance. These include:

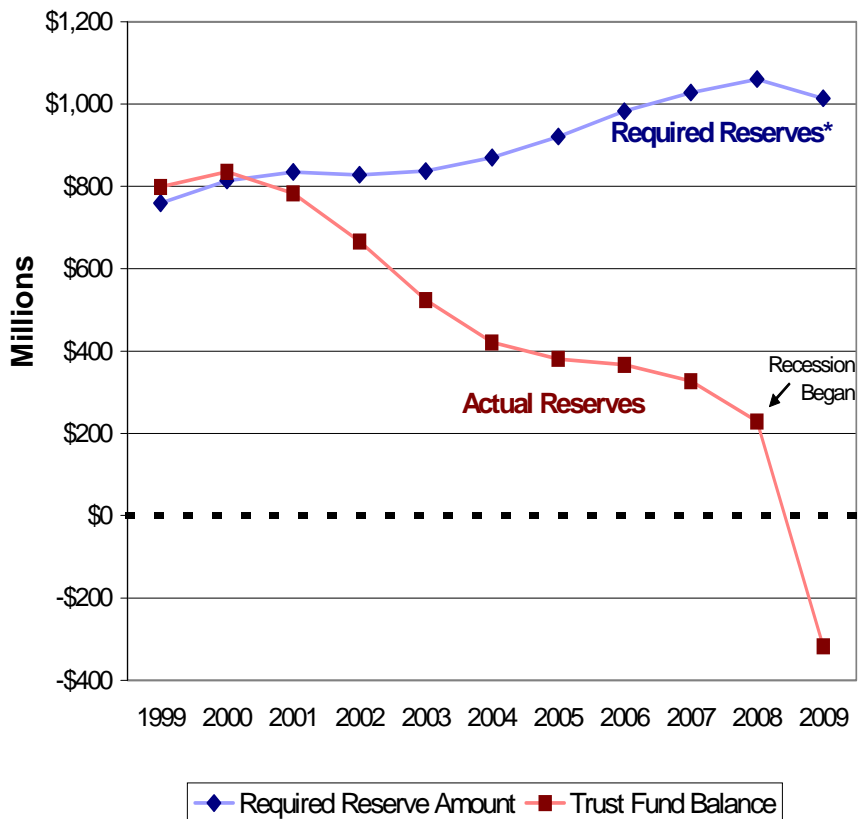
ESC did not follow a U.S. Department of Labor (DOL) recommendation regarding minimum reserves.

In 1981, the DOL issued a program letter to states to provide guidance in determining the adequacy of a state's trust fund. ESC supported the proposed law changes in 1999 even though the reserve of approximately \$800 million was about half of the level DOL guidelines suggested the state would need to be able to provide unemployment benefits during a recession and still maintain solvency of the trust fund. Had DOL guidelines been followed, the fund would not be insolvent.

ESC did not provide adequate information to government officials when the trust fund began declining.

As discussed above, the fund balance and statewide reserve ratio declined significantly between 2000 and 2008. In addition, a tax "surcharge," which only takes effect when reserves are not adequate, has been in effect since 2002 and at its maximum rate since 2004. Between 2004 and 2007, ESC's annual assessment report on the status of the trust fund noted that the state was below the 2% reserve level by several hundred million dollars. Chart 2.6 shows the trust fund balance and the amount of funds needed to maintain a 2.0% reserve.

Chart 2.6: Comparison of 2.0% Reserve Requirement and UI Trust Fund Balance



*Minimum reserve needed is 2% of total wages.

Source: ESC Annual Assessment Report and audited financial statements.

The ESC report also ranked the state in terms of the DOL suggested reserve guidelines and each year the state's ranking declined. However, none of these reports included trend charts or recommended changes to state law to address the fund's decline. In addition, the reports projected that the fund would remain solvent if the state's unemployment rate continued to decline but noted that if an economic downturn were to occur, then the trust fund would become insolvent.

Also, §41-29-280 and §41-29-290 of the S.C. Code of Laws require ESC to set up reserves "...in accordance with accepted actuarial principles...." and to "promptly" inform the General Assembly and Governor if changes are needed to protect the solvency of the trust fund.

While agency management knew fund reserves were not adequate, they did not aggressively pursue changes to benefits or the tax structure in order to alleviate the decline of the trust fund during 2000 through 2008.

Between 2000 and 2008, the state reserve ratio, the ratio which state officials felt needed to be at least 2% in order to maintain an adequate reserve in the trust fund, declined from 2% to 0.6%, or approximately one third of the recommended level. Also, beginning in 2002 a tax "surcharge" took effect. The surcharge was designed to be implemented when the reserve ratio dropped below 2% and generate additional tax revenue in order to return the reserve ratio to the 2%. However, even with the surcharge at the maximum rate of 0.7%, the trust fund reserve ratio and the trust fund balance continued to decline. According to ESC officials, ESC began meeting with legislators in 2006. However, ESC did not propose legislative changes until 2008 (see p. 54).

Other factors also contributed to the decline in the fund:

Trust fund interest earned on the funds on deposit also declined from approximately \$50 million in 2000 to \$2.3 million by the end of 2008. Interest earned helped to offset tax increases and was forgone when the trust fund balance was allowed to decline.

A rise in unemployment began in 2001. The rate of unemployment rose from an average of 3.8% in 1998 and 4.5% in 1999, when the tax change was contemplated, to the mid-6% range for several years beginning in 2003. Benefits began to rise as early as June 2001, peaked in June 2002, but continued to be at a much higher level than they had been previously. This higher level of unemployment caused an increase in benefit payouts and resulted in a severe and steady decline in the trust fund.

U.S. Department of Labor Guidance on Trust Fund Solvency

The federal government allows each state to determine the appropriate level of reserves needed to fund the state's unemployment insurance program. However, the DOL has issued guidelines to assist states in determining the appropriate level of reserves. In general terms, the DOL suggests that a state's reserve balance should provide enough funds to cover a period of unemployment equal to the worst previous period in the recent history of the program.

In 1981 the DOL issued Program Letter Number 44-81 to provide states with guidance in determining the adequacy of the unemployment insurance trust funds. The program letter explained that:

- The use of the ratio of benefit payments to total wages during the worst recession period the state has experienced provides a guide to the minimum reserve level required to finance a similar recession in the future.
- States should calculate the 12-month period when the ratio of benefit payments to total wages is the highest and multiply this number by 1.5, since a severe spell of unemployment seldom lasts just 12 months, rather usually around 18 months.
- A state should have a reserve multiple of at least 1.5 at the onset of a recession.

The 12-consecutive-month period when the ratio of benefit payments to total wages was the highest in South Carolina, prior to the 2008 recession, was in December 1975 which had a ratio of 2.89%. This ratio times the suggested 1.5 reserve multiple yields a reserve ratio of 4.335%. This translates into a reserve amount of \$1.6 billion using FY 98-99 salary data, necessary to finance the next major recession.

The program letter includes the National Commission on Unemployment Compensation (NCUC) findings on its review of solvency measures. The NCUC suggests that:

- Both reserve levels and the tax system's revenue-generating capacity should be considered and past experience indicates that reserves, as a percentage of total wages at the beginning of a downturn, should be at least 1.5 times the state's average annual benefit cost rate for some prior period.
- The use of an average of several high benefit cost rates could provide more stability than a one-year rate.

We reviewed the DOL website where program letters are archived and did not find any other communication from DOL regarding reserve solvency. Agency personnel have said they received no other formal guidance from the DOL. We found no evidence the agency acted on the NCUC recommendations regarding solvency.

Consequences of Trust Fund Insolvency

Every state is legally required to pay unemployment benefits even if the state's account is insolvent. If a state trust fund becomes insolvent, state taxpayers, private employers, and those receiving unemployment benefits can all be affected.

Once the state's trust fund becomes insolvent, states borrow from the federal government to pay benefits. If a state does not repay the loan in a timely manner, then employers face the loss of the federal tax credit. As discussed previously, the federal tax rate is 6.2% but employers receive a tax credit of 5.4% for timely payments, making the effective federal tax 0.8%. For each year that loans are not repaid, beginning the second consecutive year a state has an outstanding loan balance on January first, an additional 0.3% is added to the federal tax. Thus, the federal rate on employers would increase to 1.1% in the first year, then 1.4% in the second, etc.

States also incur interest charges on federal loans that are not repaid by the end of the year. There is a federal waiver on repaying the interest charges until 2011. The interest rate can vary but cannot exceed 10%. States are not allowed to use unemployment taxes to pay interest charges on federal loans. Thus, the state would have to use another source of funds to pay back any interest charges.

South Carolina borrowed almost \$700 million from the federal government by the end of 2009. In order to reach a reserve ratio of 2% in 2010, the state would need to have a balance of over \$1 billion in its trust fund. The state faces the prospect of having to collect almost \$1.75 billion while still paying benefits to the unemployed. This figure also excludes additional federal loans or interest charges the state may incur. The state's first interest payment will be due September 30, 2011 and is estimated to be \$52 million. Also, once the state does reach the 2% reserve level, it would still not be following the DOL guidelines for trust fund reserves.

South Carolina is not the only state whose trust fund is insolvent. As of December 2009, 24 states have borrowed from the federal government to pay benefits. The DOL forecasts that up to 41 states could be borrowing money by the end of 2010.

As a result of the insolvency, employers face both federal and state tax increases, claimants face potential cuts in benefits, and the state faces using state funds to pay interest charges. This can result in lower economic growth, less job creation, and a reduction in consumer demand.

Conclusion

Until unemployment began rising in 2001, the agency's current tax rates and interest earned on the Trust Fund balance generated sufficient revenue to pay claims and maintain a minimal reserve. However, in 2002 when economic trends began changing and ESC management had data showing that financial reserves were shrinking to dangerously low levels, the agency did not adequately respond. For example, clear recommendations and warnings were not issued to the Governor or General Assembly until shortly before the fund went bankrupt. Decisive recommendations to the General Assembly as early as 2002, such as not paying benefits to employees fired for cause and adjusting the surcharge to collect sufficient tax revenues, might have prevented the impending insolvency. Changes to assessment reports and data provided each year to the General Assembly are needed so that the General Assembly has sufficient data for policy decisions related to the state's unemployment insurance fund.

Recommendations

1. The Employment Security Commission should include in its annual assessment reports, at a minimum, a five-year trend chart that shows the Unemployment Reserve Fund's balance at the end of each year. This chart should compare the ending balance with the minimum reserves needed to withstand both an "average recession" and a severe recession.
2. When the assessment reports indicate that the trust fund reserve level is less than the minimum needed, agency management should provide recommendations necessary to increase the reserves.

How the Current Tax Structure is Not Equitable

In our review of the UI trust fund solvency, we identified several issues with the tax structure that the state must address in order to implement a tax system that is equitable, repays the federal loans, and prevents future insolvency.

The current taxable wage base of \$7,000 is not effectively related either to benefit payments or to individual employer reserves needed to respond to unemployment.

Since the tax is only collected on the first \$7,000 of wages, the amount of the tax is the same for an employee averaging \$7,000 per year as it is for an employee averaging \$21,000 per year, yet the amount of benefits received by the employees varies because the benefits are based on the employee's taxable wages. Thus, the employee making \$21,000 a year who loses his job and collects unemployment receives significantly more in benefits than an employee paid \$7,000 a year.

The current tax structure provides that some employers with a positive balance pay the same tax amount, 2.64%, as other employers who have a negative balance.

Table 2.1 shows the tax rate at each reserve ratio level. As the table shows, an employer with a positive reserve ratio up to 4% pays the same tax as an employer with a negative reserve ratio of -5% or less. This causes inequity and little incentive for an employer to remain in the positive balance area, since additional layoffs and benefits result in the same tax to the employers in this reserve range.

The tax structure imposes a tax on the positive balance employers with a positive ratio above 4% at every 1% change in the amount of benefits paid whereas the tax remains the same on the negative balance employers until there is a 5% change in the amount of benefits paid.

When there are broad intervals between the tax rates, there is a limiting effect on the experience ratings because employers with different experience ratings will pay at the same tax rate. For example, there is no tax consequence for the benefits that affect the first 4% of reserve balance change, within each 5% range of negative reserve balance, to help offset the additional benefits, creating more "pooled" costs that have to be paid with pooled funds. This is particularly true in South Carolina at the 2.64% tax rate, which applies the same tax rate to employers whose reserve ratio ranges from a positive 4% to a negative 5%, a range of almost 9 percentage points.

Employers with negative reserve ratios exceeding 40% are paying the same tax rate as employers with ratios equal to -40%.

Employers who have reached the maximum tax rate (6.10%) because they have a negative reserve of more than 40% are incurring claims without contributing additional tax to the fund. Companies with a negative reserve beyond 40% do not pay an additional tax; these claims are paid out of the pooled money in the trust fund. In effect they are subsidized by the excess contributions of the highly positive balance employers.

There is a disproportionate share of employers that file job-attached claims among employers with a reserve balance of 40% or more negative.

“Job-Attached” claims refer to unemployment claims filed by employers on behalf of their employees. These employees are “job-attached”, meaning that they will be returning to their current job after the period of unemployment is over.

Of the approximately 85,000 employers in the experience rating system, approximately 3,200 (4%) regularly file job-attached claims. We found that approximately 11% of all employers have a negative reserve ratio versus 25% of companies who file job-attached claims. Also, about 11.5% of all employers with a negative reserve balance 40% or more file job-attached claims. In addition, according to a Department of Commerce study of agency data from 2006-2009, 17.6% of all UI claims are employers filing job-attached claims and they account for 15.3% of all UI claimants.

Some negative balance employers may never have been, or may never regain a positive reserve balance.

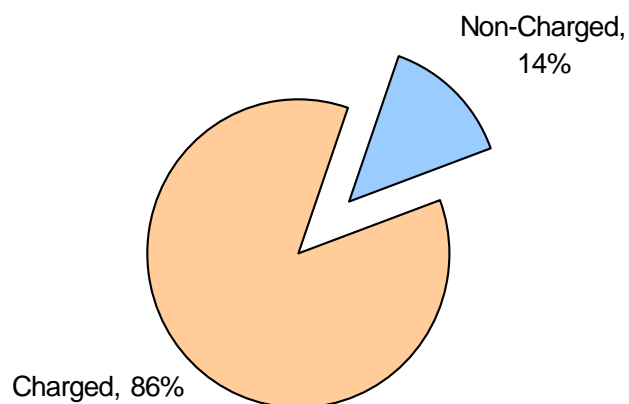
In a random selection of 4 employers who regularly file job-attached claims that have a balance of 80% negative or more, we found 2 of the 4 had reserve ratios greater than 150% negative and 1 of those had a reserve balance of negative \$1.8 million. This means the company’s workers had collected \$1.8 million more in benefits than the company paid in taxes. The other 2 had negative reserve ratios of 128% and 83%.

We estimate that it would take the employer with the negative \$1.8 million reserve balance 28 years to pay back in tax contributions the amount of unemployment benefits that had been collected by the company’s employees.

Non-charged benefits, benefits paid to unemployed individuals but not included in a company's experience rating, can result in an increase in pooled costs paid by all employers.

Non-charged benefit payments are allowed partly because of the belief that an employer should not be charged for unemployment for which the employer was not responsible. For example, in South Carolina, a worker who quits his job due to a domestic violence situation can collect unemployment benefits and these benefits are not included when calculating the employer's experience rating. Essentially the benefits paid are shared by all employers. Such shared benefit costs reduce a company's experience rating and impose additional costs on all employers. Non-charged benefits can amount to a significant portion of total benefit payments. In 2004, non-charged benefits in the states ranged from about 3% of total benefit payments in Colorado and New York to about 32% in Maine. In 2004, non-charged benefits exceeded 10% of total benefit payments in 34 states and over 20% of total benefits in 7 states. Nationally, from 2001 to 2004, non-charges averaged between 10% and 13.3% of all benefits paid. Chart 2.7 shows the percentage of non-charged benefits in South Carolina as a percent of all benefits paid for 2009.

**Chart 2.7: Percentage of
Non-Charged Benefits — 2009**



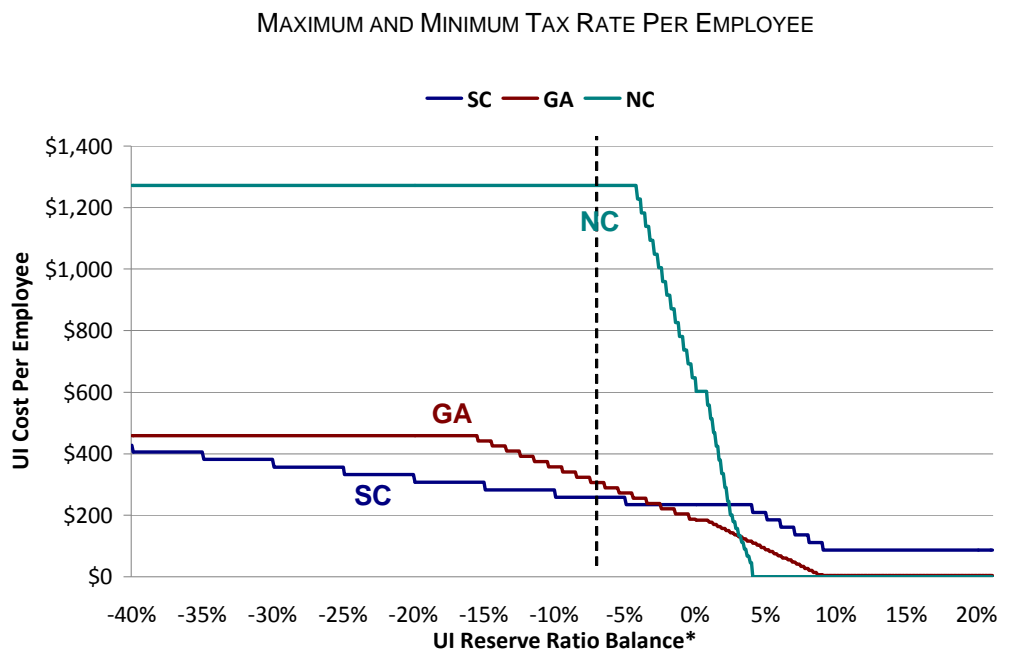
Source: U.S. Dept. of Labor – 2009 Significant Measures of UI Tax Systems

A certain amount of non-charged benefits is normal in an agency administering unemployment programs. The S.C. General Assembly has enacted laws to provide benefits to workers unemployed for military spouses moving because of a military assignment and victims of domestic violence and to protect the employers from being held liable through an increase in their experience ratings.

How Other States Tax Businesses

Tax rates can vary significantly from state to state. We found 44 states that set their lowest tax rate below our state's tax rate. A number of others states, such as Georgia and North Carolina, have a 0% or near zero tax rate for employers who do not have many layoffs. Other states have higher maximum rates. For example, Massachusetts has the highest tax rate at 15.4%. If the minimum tax rate is too high, employers accumulate excess reserves, which provides incentive to draw down on the excess funds through layoffs. This is because the excess reserves provide enough of a cushion so that an employer may layoff workers and still avoid a tax consequence.

Chart 2.8: Comparison of Tax Rates to Reserve Ratio Balance in South Carolina, North Carolina, and Georgia



Source: Department of Commerce

In addition to different tax rates, states also have different levels of wages that are subject to the tax. South Carolina applies its tax rate to the first \$7,000 of employee wages. This is the lowest level allowed by federal law. Only six other states have their taxable wage base at this level. The highest taxable wage base is in the state of Washington, with a taxable wage base of \$35,700. Eighteen states also index their taxable wage base to the state's average annual wage. This allows the taxable wage base to increase as wages increase.

In about half of the states, employers may obtain lower rates by making voluntary contributions. A voluntary contribution, in a reserve ratio system, increases the balance in an employer's reserve so that a lower rate is assigned. This will save the employer more than the amount of the voluntary contribution — and results in less total tax being paid into the fund. Some states limit how much can be “pre-paid” and prohibit it under certain conditions, such as when surcharges are in effect. South Carolina law currently does not allow voluntary contributions.

Conclusion

The current tax rates and surcharges are too punitive to employers who rarely or never layoff employees and does not charge a sufficient amount to employers who overuse the system. In addition, the current tax rates and surcharges are not sufficient to pay ongoing claims, and ESC will continue to borrow from the federal government to pay ongoing claims. Major changes and considerations are needed so that a fair tax system is enacted, the federal loans are repaid, and the minimum reserve level is reestablished. The amount needed to repay the federal loan (not including interest) and fund the reserve account will be nearly \$2.5 billion by the end of 2010.

The Employment Security Commission should request the assistance of the actuarial experts from the U.S. Department of Labor to assist with providing recommended tax changes to the General Assembly. If this assistance is not readily available, ESC should contract with a professional actuarial firm that specializes in unemployment tax rate issues to provide recommendations to enact a more equitable tax rate.

Recommendation

3. The Employment Security Commission should conduct a review of economic conditions affecting the Unemployment Insurance Trust Fund. To conduct this review, the commission should use the services of professional actuaries. The commission should make recommendations, as appropriate, to the General Assembly to protect the solvency of the trust fund. At a minimum, the commission should address:
 - What the appropriate taxable wage base should be.
 - Whether the taxable wage base should be indexed to the average wage.
 - What range of tax rates the state should use.
 - Whether the increments between tax rates are appropriate.
 - Whether employers with negative reserves should be subject to additional taxes.
 - Whether a tax surcharge is appropriate and whether the surcharge should be a flat rate or vary based on a company's experience.
 - The amount of non-charged benefits the state is willing to spread over all employers.
 - Whether job-attached claims, particularly for those employers who have negative reserve balances, should be allowed by law.
 - Whether employers should be allowed to "pre-pay" their taxes and, if so, under what conditions this should be allowed.
 - Options to return the fund to solvency and repay federal loans.

Payments to Employees Terminated for Cause

Eliminating benefits paid to employees terminated for cause could result in significant savings to the state's unemployment trust fund. Approximately \$171 million in benefits was paid to employees fired for cause between FY 06-07 and FY 08-09. This is approximately 10% of all benefits paid to the unemployed over the last three years. We found that 38 states do not pay benefits to employees fired for misconduct.

South Carolina law provides that employees terminated for misconduct can receive partial unemployment benefits. Pursuant to S.C. Code §41-35-120(2), if an individual is found to have been discharged for cause, he is ineligible for benefits for not less than 5 nor more than 26 weeks. The commission determines the period of ineligibility in each case according to the seriousness of the cause for discharge. We reviewed terminations for cause and found that in less than 1% of the cases between FY 06-07 and FY 08-09 did the commission disqualify a claimant for 26 weeks. On average, claimants were disqualified for 10 out of 26 weeks.

Reasons for terminations for cause connected with work can include:

- Excessive absenteeism.
- Destruction of company property.
- Violations of company policy.
- Incarceration.
- Patient abuse.
- Fighting.

We reviewed a sample of cases where employees were terminated for cause but still collected unemployment benefits. A description of some of those cases follows:

- An employee made unauthorized charges on the company credit card, which included motel rooms, hardware, and internet dating charges. The employee stated, "I didn't see any problem as long as I paid what I owed." The employee was disqualified for 15 out of 26 weeks of benefits. The employee received \$3,586 in benefits from the unemployment compensation fund.
- An employee was discharged for destroying company property in an accident involving reckless driving in the company car. The employee was disqualified for 10 out of 26 weeks of benefits. The employee received \$2,134 in benefits from the unemployment compensation fund.
- An employee was sent home from work for smelling of alcohol and drove another employee's vehicle without consent. The employee later

returned to the employer's property, drank alcohol, and was arrested by police. The employee was disqualified for 18 out of 26 weeks of benefits. The employee received \$1,384 in benefits from the unemployment compensation fund.

- An employee made a threat while on the job and alluded to a weapon in his car. Police found a loaded firearm in the employee's car. The employee was disqualified for 12 out of 26 weeks of benefits. The employee received \$2,440 in benefits from the unemployment compensation fund.
- An employee hit a resident at a nursing facility, causing the resident to fall to the ground. The employee was disqualified for 20 out of 26 weeks of benefits. The employee received \$900 in benefits from the unemployment compensation fund.
- An employee was alleged to have been involved in business irregularities which resulted in shortages to the company. The employee admitted to obtaining false refunds which, by her estimate, cost her employer \$1,000. The employee was disqualified for 20 out of 26 weeks of benefits. The employee received \$588 in benefits from the unemployment compensation fund.
- An employee was discharged for absenteeism due to incarceration. The employee was disqualified for 8 out of the 26 weeks. The employee received \$5,868 from the unemployment compensation fund.

Though the actions of the employees described above were not necessarily the most egregious examples we examined, they are examples in which terminated employees received benefits despite committing serious misconduct. Overall, about \$171 million in benefits was paid to employees terminated for cause between FY 06-07 and FY 08-09 (see Table 2.9).

Table 2.9: Benefits Paid to Claimants Terminated for Cause

FISCAL YEAR	BENEFITS PAID TO CLAIMANTS TERMINATED FOR CAUSE
06-07	\$44 Million
07-08	\$55 Million
08-09	\$72 Million

Source: ESC

Other States

South Carolina's policies regarding payments to employees terminated for cause are unlike those in other states. Below is a summary of termination policies in four southeastern states:

Georgia

Georgia law states that unemployment benefits are to be provided to individuals who become unemployed through no fault of their own. Georgia law states that an individual shall be disqualified from receiving benefits if that individual has been terminated for failure to obey orders, rules, or instructions or for failure to discharge the duties for which the individual was employed. Georgia does not have a partial disqualification system.

North Carolina

North Carolina law states that individuals are to be penalized for the duration of their unemployment if it is determined by the North Carolina Employment Security Commission that such individuals are unemployed because they were discharged for misconduct associated with their work. Individuals who are unemployed due to substantial fault on their part not rising to the level of misconduct shall be penalized between 4 and 13 weeks.

Tennessee

If an individual is discharged for work-related misconduct, that individual is disqualified from receiving benefits in Tennessee. Tennessee does not have a partial disqualification system.

Virginia

In Virginia, employees are disqualified from receiving unemployment benefits if the employee was discharged for misconduct connected with his work. Virginia does not have a partial disqualification system.

Employer's Tax Rate

Paying benefits to claimants terminated for cause also impacts an employer's tax rate. Under state law, an employer's tax rate is affected by its experience rating which is based, in part, on benefits paid to workers. Benefits paid to employees terminated for cause are not included when calculating an employer's experience rating resulting in a lower tax rate. As noted above, benefits paid to employees terminated for cause are approximately 10% of all benefits paid. These benefits are not charged to an individual employer but instead are paid from taxes paid by all employers, resulting in a less equitable tax structure.

Conclusion

Eligibility information on ESC's website states that, in order to be eligible for unemployment, an individual "...must be separated from their job through no fault of their own." However, this information is contrary to the agency's legally authorized practice of paying benefits to employees who are fired for cause.

ESC has estimated that amending state law to increase the minimum disqualification period from 5 weeks to 10 weeks would save approximately \$12 million a year. ESC has also proposed eliminating benefits for claimants terminated for "gross misconduct."

Recommendation

4. The General Assembly should amend §41-35-120 of the S.C. Code of Laws to provide that an employee terminated for cause is not eligible for unemployment benefits.

Unemployment Claims for Job-Attached Workers

South Carolina is one of only seven states that allow the filing of job-attached claims. Between FY 06-07 and FY 08-09, ESC paid over \$100 million in unemployment benefits to workers who had jobs but were temporarily separated.

Job-attached claims are filed by the employer on behalf of the worker. Workers collect unemployment benefits (minus a one week waiting period) for the time they are temporarily separated from their job. During this time, employees are exempt from any job search requirements because they are still "attached" to a job. Examples of job-attached claims include:

- Employees at a manufacturing plant can collect unemployment benefits while the plant is temporarily closed for maintenance.
- Employees who, due to lack of work or other reasons, are "cycling." These employees may work three weeks on, then one week off, and can collect unemployment for the week they are off. They then return to work and the cycle begins again.
- Employees who work for companies that contract with school districts for cafeteria or janitorial workers can collect unemployment benefits during the summer.

Table 2.10 details the amount of benefits paid in job-attached claims over the last three fiscal years and the percentage of overall claims paid.

Table 2.10: Benefits Paid for Job-Attached Claims, FY 06-07 Through FY 08-09

FISCAL YEAR	BENEFITS PAID IN JOB-ATTACHED CLAIMS	PERCENTAGE OF TOTAL BENEFITS PAID
06-07	\$28,443,721	8.0%
07-08	\$45,443,373	9.1%
08-09	\$27,883,714	3.6%

Source: ESC

Job-attached claimants can receive up to six weeks of benefits. If their employers have not called them back to work after six weeks, they can file for unemployment benefits on their own. In 2007, approximately 3,200 claimants filed for benefits after exhausting the job-attached limit. In 2008, this number increased to over 10,200. In 2008, job-attached claims averaged 5 weeks.

Section 41-27-370(1) of the S.C. Code of Laws states that an individual is unemployed “in any week during which he performs no services ...or in any week of less than full-time work if the wages payable to him with respect to such week are less than his weekly benefit amount”. The law further states that it is up to ESC to prescribe regulations applicable to the unemployed, including “partial unemployment of individuals attached to their regular jobs....”

Prior to 2006, ESC allowed job-attached individuals to collect up to 26 weeks of unemployment benefits annually. On January 1, 2006, ESC reduced the number of weeks an employee could receive benefits through job-attached claims from 26 to 13. On July 1, 2008, the limit was lowered again, to eight weeks and, on April 1, 2009, the limit was lowered to six weeks.

After the initial change from 26 weeks to 13 weeks, ESC estimated that this change saved the agency approximately \$5 million in 2008. However, employees who reach the limit of their job-attached claims are still eligible to file a claim individually to receive unemployment. Because of this, ESC officials have stated that there were minimal additional savings associated with the change from 13 weeks to 8 weeks or from 8 weeks to 6 weeks.

Benefits for Seasonal Workers

Seasonal employees, such as restaurant and hotel workers, are also eligible for job-attached claims. Until the change in allowable weeks, this meant that a hotel or restaurant worker could work during the peak tourist season and then collect unemployment benefits for 26 weeks without having to meet job search requirements.

In several states, state law limits the benefits of workers who earn wages from employers who only operate during certain seasons of the year. The most common restriction is that unemployment benefits for these employees are only available during the regular season of their employment.

Conclusion

ESC officials cite several benefits associated with job-attached claims. Companies benefit because they are able to retain their workforce while minimizing costs, since employees receive no or reduced wages during the time they are on unemployment. ESC benefits from reduced administrative expenses since the normal filing process and job search requirements are not performed for job-attached claims.

However, eliminating or limiting job-attached claims could help improve the solvency of the UI trust fund. We found that, for the period of January 2008 through March 2009, 25% of employers filing job-attached claims had a negative reserve balance. This is almost twice the rate for all companies. Also, it is questionable whether providing benefits to individuals with jobs fulfills the purpose of unemployment insurance, which is primarily designed as a safety net for those without jobs.

Recommendation

5. The General Assembly should consider prohibiting individuals who are job-attached from being eligible to receive unemployment benefits.

Or, if not prohibited, the General Assembly should amend state law to:

- Place a limit on the number of weeks a worker can collect unemployment benefits while job-attached.
- Limit unemployment benefits for seasonal workers so that they can only be collected if a worker loses his job during the period of his employment.
- Establish an additional charge for employers with a negative reserve balance who regularly file job-attached claims for their employees.

Claimant and Employer Fraud/Tax Evasion

Overpayment of Benefits

We found that in February 2008, the Employment Security Commission (ESC) stopped prosecuting claimants for fraud. In addition, the agency should re-evaluate its policy for writing-off fraudulent overpayments. Finally, ESC is not meeting federal performance measures relating to debt collection.

ESC classifies overpayments of unemployment benefits into two categories, fraud and non-fraud. An example of fraud would be intentionally withholding information to obtain or increase benefits, such as working while collecting unemployment benefits. Examples of non-fraud include employer, claimant, or ESC errors (such as issuing duplicate unemployment checks). For FY 06-07 through FY 08-09 there were 12,188 fraudulent overpayment cases and 67,017 non-fraudulent overpayment cases. Table 2.11 shows the amount of fraud and non-fraud overpayments identified and collected for FY 06-07 through FY 08-09.

Table 2.11: Amount of Fraud and Non-Fraud Overpayments Identified and Collected by ESC

FISCAL YEAR	FRAUD		NON-FRAUD	
	IDENTIFIED	COLLECTED	IDENTIFIED	COLLECTED
06-07	\$3,111,174	\$1,632,204	\$5,315,439	\$4,421,688
07-08	7,104,762	2,258,751	7,717,701	5,176,390
08-09	7,314,722	3,344,989	12,572,506	7,717,202
TOTAL	\$17,530,658	\$7,235,944	\$25,605,646	\$17,315,280

Source: ESC

The following table shows average overpayment amounts (both fraudulent and non-fraudulent) for the last three fiscal years.

Table 2.12: Average Overpayment Amounts

FISCAL YEAR	AVERAGE OVERPAYMENT AMOUNT	
	FRAUD	NON-FRAUD
06-07	\$1,274	\$360
07-08	\$1,498	\$349
08-09	\$1,462	\$418

Source: ESC

In February 2008, ESC stopped referring claimants for prosecution who had fraudulently obtained benefits. In FY 08-09, more than \$7.3 million was paid out due to fraud.

ESC has a Benefit Payment Control (BPC) unit whose purpose is to identify and collect overpayments. One way that ESC identifies overpayments is by cross-matching employee information with other agencies, such as the Social Security Administration, the National New Hire Directory, and the State New Hire Directory managed by the Department of Social Services.

Once an overpayment has been identified, ESC can take several steps to collect the overpayment. ESC can contact the individual's current employer and have 25% of the employee's net pay (25% of gross pay for state employees) withheld until the overpayment is repaid. ESC can also confiscate an individual's state and federal tax refund. In addition, ESC can reduce a person's weekly benefit amount. Further, ESC can disqualify a claimant from receiving unemployment benefits for between 10 to 52 weeks.

However, this disqualification has limited effectiveness since, in most cases, a claimant has gone back to work, and by the time the claimant files for unemployment again, the disqualification has already been served.

Claimant Fraud

In all seven fraud cases we examined, the claimants knowingly withheld information to obtain or increase their unemployment benefits.

ESC has stopped referring claimants who fraudulently obtain unemployment benefits for criminal prosecution. We reviewed ESC's 2008 State Income Tax Intercept List and selected nine cases in which the claimant had received over \$10,000 in overpayments. In seven of these cases, ESC records show that the claimants fraudulently obtained unemployment benefits.

ESC sent letters to these individuals to try and collect the overpayment. In three cases, ESC sent letters requesting that employers garnish wages. In all cases, ESC requested the Department of Revenue (DOR) withhold their state tax refunds. However, ESC stated that only one of these cases was referred for prosecution, and in that case, the warrant had not been served.

According to an ESC official, the decision to stop prosecution of fraudulent overpayments was based on the need to reassign staff handling the prosecutions to assist in the identification, investigation, and establishment of more overpayments, which is required to meet U.S. Department of Labor performance standards.

The last cases ESC sent for prosecution were in February 2008. There were 45 cases sent for prosecution from FY 06-07 through February 2008, totaling approximately \$98,000 worth of overpayments. Thus, ESC referred for prosecution approximately \$98,000 (less than 1%) of approximately \$10.2 million in fraudulent payments in FY 06-07 and FY 07-08.

S.C. Code §41-27-590 states:

All criminal actions for violation of any provision...shall be prosecuted by the Attorney General of the State or at his request and under his direction by the solicitor of any circuit or any prosecuting attorney in any court of competent jurisdiction in the county in which the employer has a place of business or the violator resides.

ESC referred for prosecution approximately \$98,000 (less than 1%) of approximately \$10.2 million in fraudulent payments in FY 06-07 and FY 07-08.

We consulted with the Attorney General's (AG) office concerning processes to refer cases involving fraud. The AG's office has not received any cases of fraud from ESC in the last three fiscal years but indicated a willingness to review cases of significant claimant and employer fraud to determine if criminal charges are warranted. The AG's office also offered to execute a written memorandum of agreement with ESC, if needed.

Employer Fraud/Tax Evasion

ESC has not referred for prosecution employers who evade paying unemployment taxes on their employees. For example, ESC often finds employers who claim their employees are independent contractors instead of regular employees and thus are not required to pay taxes on those employees.

ESC conducts random audits of employers and often finds unreported employees. Table 2.13 shows the amount of employer fraud for FY 06-07 through FY 08-09.

Table 2.13: Fraudulent Employer Taxes Identified and Collected by ESC

FISCAL YEAR	AMOUNT OWED	AMOUNT COLLECTED
06-07	\$469,013	\$121,936
07-08	663,641	59,391
08-09	403,058	52,650
TOTAL	\$1,535,712	\$233,977

Source: ESC

When ESC finds an employer is underreporting its employees and not paying taxes, the employer has to pay a penalty and interest along with its back taxes. ESC is also allowed to review 16 more quarters (4 years) of the employer's records.

In order to collect the back taxes, ESC can set up an installment payment plan with the employer or withhold a company's state tax refund. ESC can also issue tax executions (liens) against employers' property and assets and perform tax levies on employers' bank accounts. Finally, ESC can prosecute employers if the employer fails to send (or falsifies) their tax/payroll reports.

We reviewed ESC's fraudulent employer taxes for the last four fiscal years and examined records of the three most recent employers who owed over \$10,000 in back taxes. One employer owed ESC over \$39,000 in taxes and penalties. We found that all three of these employers owed ESC money because they did not accurately report their employees and payroll. Also, all three of the companies treated some of their employees as independent contractors.

ESC sent letters to each of the three employers demanding payment and also put liens on their property/assets. One of the employers set up an installment payment plan with ESC. However, according to an agency official, ESC has not referred these cases for possible criminal prosecution and, as of November 2009, there are no outstanding warrants on any of these employers.

Debts Waived and Written Off

S.C. Code §41-41-40 gives ESC the authority to allow claimants to retain overpayments under certain conditions. If a claimant receives an overpayment through no fault of his own (non-fraudulent) and can prove to ESC that he cannot financially repay the overpayment then repayment may be waived by ESC.

Also, regardless of whether they were fraudulent or non-fraudulent, ESC writes-off the outstanding overpayment amounts if the agency has been unable to collect the overpayment within five years.

Table 2.14 shows the amounts waived and written-off (both fraudulent and non-fraudulent) for the last three fiscal years.

**Table 2.14: Amount of Debts
Waived and Written-Off**

FISCAL YEAR	WAIVED*	FRAUD WRITTEN-OFF**	NON-FRAUD WRITTEN-OFF**
06-07	\$107,152	\$365,477	\$729,782
07-08	109,633	777,773	963,336
08-09	244,104	1,009,280	947,133
TOTAL	\$460,889	\$2,152,530	\$2,640,251

* Non-fraudulent overpayments that can be canceled if ESC determines a claimant cannot financially repay.

** Amounts written-off of books because ESC has been unable to collect within five years.

Source: ESC

Overpayment Performance Measurers

ESC is not meeting the federal Department of Labor's (DOL) standards for collecting overpayments. The DOL uses a sampling method to estimate the amount of overpayments taking place. For the last three fiscal years, ESC was estimated to have established overpayments on 48.31% of the cases on which overpayments actually occurred. The federal DOL's standards require South Carolina to detect 52.8%.

ESC is also required to submit a corrective action plan to DOL stating how it will improve its percentage. In its most recent plan, ESC states that it continues to work on its Crossmatch Audit System. ESC is also in the process of completing a supplemental budget request to purchase a software system to become more efficient and prevent, detect, and process overpayments. Finally, ESC states that it is also looking at another software system that will aid it in preparing in-depth analysis of patterns and tendencies to help it better detect organized fraud.

Conclusion

ESC should be more aggressive in pursuing claimants who have received overpayments, as well as employers who attempt to exploit the agency by not paying their correct unemployment tax. ESC should use all methods available, including prosecution, to recover money owed to the agency.

Recommendations

6. The Employment Security Commission should refer all cases of significant claimant and employer fraud to appropriate authorities to determine if criminal charges are warranted.
7. The Employment Security Commission should consult with the Attorney General's Office concerning the establishment of an agreement on when and how to refer fraud cases for possible prosecution.
8. The Employment Security Commission should not write-off fraudulent debts until after it has pursued criminal prosecution.

How ESC Assists Claimants in Finding Employment

Part of ESC's mission is to help claimants find employment. When businesses want to fill job openings, they will sometimes request ESC to refer applicants on file with the agency. In this chapter, we explain how the agency could improve its effectiveness in helping claimants return to the workforce.

Employment and Training

In addition to paying unemployment benefits and collecting taxes, ESC assists claimants in returning to work. We reviewed the services ESC provides and how effective the agency is in assisting claimants in returning to work. We found that ESC could improve its efforts to return claimants to the workforce.

Referral Screening Process

While ESC does have a procedure for matching clients with job referrals, ESC does not have a written policy regarding what criteria should be used in this screening process. In addition, unemployed clients are not given priority, as required by agency policy.

When ESC receives a job order from an employer, it searches the JobLink system for candidates that meet the minimum job requirements, usually work experience and/or educational level. The applicants in JobLink may or may not be unemployed, since any individual can register in JobLink, including individuals who have jobs but may be looking for more desirable jobs. Once staff identify applicants that meet minimum requirements, these applicants are screened in order to refer only the "best" applicants for the job. ESC staff narrow the field of potential referrals by considering additional employer criteria, such as computer or mechanical experience. However, this screening process used by ESC staff is subjective, as ESC has no formalized written policy for employees to use when screening applicants during the course of referring clients to potential jobs.

According to ESC policy, "veterans are given priority of service with claimants being given the next consideration". However, officials at ESC indicate that the agency does not refer UI claimants before referring others. ESC's objective is to refer the "best" applicant for the job, whether that individual is a UI claimant or not.

In addition, ESC does not take into account previous job misconduct or terminations for cause when referring potential job candidates, according to agency officials. For example, an individual who was fired from a previous job at a hospital for patient abuse could be referred by ESC to a job at an elder care nursing facility. ESC can screen potential candidates according to

criteria set by the employer, as long as the criteria are related to the job and are not illegally discriminatory. It could benefit both ESC and employers statewide if ESC worked more closely with employers to identify specific criteria to be used for screening applicants for referrals.

Job Referrals

As part of the services it provides for employers, ESC refers potential job candidates for job openings listed through JobLink. We found that ESC does not penalize claimants who do not follow through on job referrals.

Job referrals are made through a matching process done by ESC staff. Staff search for candidates within the system that meet the minimum qualifications set by the employers. Once ESC staff have identified viable candidates for referral, these individuals are contacted regarding the job opportunity; once the candidates agree to be referred to the job, ESC officially informs the employer of the referrals. The employer then expects to be contacted by the candidates to set up referral interviews. It is the responsibility of the job applicant to contact the employer and schedule an interview. Some applicants choose not to contact the employer or to attend the interview they set up with the potential employers.

Agency officials indicate that because of the volume of job referrals that they provide, they are unable to follow up with potential employers for each individual applicant. ESC does gain knowledge of referral candidates not attending interviews, but generally this is because employers ask ESC for additional candidate referrals after initial candidates fail to materialize. ESC also conducts periodic eligibility reviews with claimants. During these reviews, claimants are required to provide evidence of their job search efforts. ESC might benefit from implementing a job referral review process into the eligibility review process. During the review, ESC could examine a claimant's job referrals and determine whether the claimant followed through on the referrals. Alternately, ESC could also require claimants to return signed forms as an indicator that they attended referral interviews.

In order to collect unemployment benefits, claimants must be able to work, available to work, and actively seek full-time work. If claimants are not attending interviews with potential employers, this suggests that they are neither making themselves available for work nor actively seeking work; therefore, these individuals would not be entitled to benefits. Instituting penalties for claimants who do not follow through on job referrals could have a twofold benefit for ESC. Penalties may encourage claimants to become more proactive and responsive in the job search process and, in turn, ESC may experience an increase in direct job placements.

Whenever ESC stops a claimant's benefits, a letter is sent explaining the reason. ESC has standard statements that it includes in the letter. Among the reasons an individual may lose their benefits is failure to go to a job referral. However, according to ESC data, no claimants have been disqualified for not going to a job referral.

Recommendations

9. The Employment Security Commission should develop a written policy regarding what criteria should be used in the screening of candidates in the job referral process.
10. The Employment Security Commission should work with employers and identify specific written criteria to be used for screening applicants for referrals.
11. The Employment Security Commission should disqualify claimants from unemployment benefits who do not follow up on job referrals.
12. The Employment Security Commission should give claimants and the unemployed priority in job referrals.

Performance Measures

ESC does not track claimants who have been identified as likely to exhaust their benefits to determine if they have obtained employment. Also, ESC's goal that 20% of all job placements be claimants is inadequate. ESC does not have goals for the number of employer contacts by job developers.

Claimant Profiling

Federal law requires each state to establish a Worker Profiling and Reenactment Services (WPRS) system. However, ESC has not measured the effectiveness of its use of this program.

WPRS requires a claimant profiling process, either through the use of a statistical model or the use of a set of characteristics, that identifies claimants who are likely to exhaust their unemployment benefit period. As ESC identifies these claimants, they are referred to additional reemployment services in an attempt to assist them in returning to the workforce. For these profiled claimants, participation in these additional services becomes an additional condition of their receipt of unemployment benefits.

In South Carolina, some profiled individuals receive special services through the Reemployment Services program. At the beginning of the claims process, profiled claimants attend an orientation workshop where they are given more information on job seeking skills, interviewing, as well as being told about other services that are available to them. Claimants are then assessed and some referred to specific services such as GED classes, the WIA program, and additional upcoming workshops offered at their area workforce center locations.

Federal standards require that ESC report how many participants receive services from and complete the WPRS system annually. However, the Department of Labor does not require states to report outcome measures on participants completing this program; that is, there is no requirement that states follow claimants to determine if they did exhaust their benefits or if the program made a difference in assisting them in getting back into the workforce.

According to officials at ESC, the agency does not track these types of outcome measures; therefore, there is no indication whether the types of services currently being used are effective in aiding profiled claimants in returning to work. A 2006 Government Accountability Office report found that six states do track outcome measures for claimants within the WPRS system. While doing so is not required by the federal Department of Labor, gathering these measures could benefit the agency in understanding if its current approach to the WPRS system is effective or if another approach should be considered.

Claimant Job Placements

In FY 08-09, ESC established monthly job placement goals for each local office. There is an overall placement goal as well as goals for the percentage of placements for both claimants and veterans. Goals are set based on office size. Table 3.1 details these goals for June 2009.

As the table illustrates, ESC's goal for staff-assisted job placements of claimants is 20% and 15% for the placement of veterans, regardless of office size. This means that the goal of management is for up to 65% of ESC staff-assisted placements to be of individuals who already have a job and are seeking a preferable one or individuals who are unemployed but not receiving benefits.

Table 3.1: Staff-Assisted Placement Goals, for June 2009, by Office Classification (Size)

WORKFORCE CENTER CLASSIFICATION	OVERALL PLACEMENT GOAL	UI CLAIMANT PLACEMENT GOAL	VETERAN PLACEMENT GOAL
2 (smallest)	60	12 (20%)	9 (15%)
3	100	20 (20%)	15 (15%)
4	140	28 (20%)	21 (15%)
5 (largest)	300	60 (20%)	45 (15%)

Source: ESC

ESC also sets goals for the number of overall staff-assisted placements and the entered employment rate. In FY 08-09, ESC achieved 77% of its goal for staff-assisted placements. Staff-assisted placements are those direct placements which occur when ESC refers an individual to a job and he is hired. Entered employment rate is concerned with all individuals who find employment, but not necessarily with ESC assistance. According to ESC, the agency's goal is that 31.5% of individuals included in the entered employment rate be claimants.

The stated goal of the ESC's employment and training division is to "facilitate our customers return to work". While ESC statistics show that almost half of the participants entering employment are claimants, the percentage of direct claimant placements is much lower. In FY 08-09, 31% of ESC's direct placements were claimants. While this is higher than the goal of 20% set by the agency, it calls into question whether it is adequate for less than one-third of all direct placements by ESC to be for UI claimants. Establishing a greater emphasis on placing claimants can help reduce the amount of money paid in benefits and ultimately reduce the costs to the UI trust fund.

Job Developers

In order to have an adequate number of job openings to refer clients, ESC employs job developers, who are charged with working within the business community to educate employers about the services ESC provides. These job developers both call and visit local employers to provide them with information about services and benefits ESC provides to employers. ESC data indicates that approximately 60% of job openings are not listed through ESC's JobLink system.

In 2009, using \$5.6 million in federal stimulus funding, ESC hired 86 additional full-time job developers and referral specialists. Agency officials report that with the hiring of the additional job development staff, the agency has been able to place additional emphasis on making employer contacts. From January to June 2009, the number of employer contacts recorded by ESC increased from 732 to 4,812. And from the first quarter of 2009 to the second, the number of new employer accounts in the JobLink system more than doubled, from 1,005 to 2,550.

Job developers also obtain relevant information regarding job openings from employers in order for it to be posted on ESC's job database system, JobLink. Through developing and maintaining relationships with area employers, job developers serve a critical function in helping return unemployed claimants to the workforce. Job developers also rely on their own research of other job listing resources to ascertain what employers to approach about listing their openings through ESC's system. As part of the community relations aspect of job development, job developers often serve on local boards and chambers and maintain involvement in other local business events.

However, ESC officials state that while the progress of developers is monitored, there are no formalized goals for obtaining job order requests from employers. In addition, at one time, ESC used an employer penetration rate formulation to calculate the percentage of job vacancies in the area that were listed with ESC, as a percentage of all vacancies. ESC currently estimates this penetration rate at 40%; that is, less than half of all vacancies are listed with ESC.

Recommendations

13. The Employment Security Commission should revise its job placement goals to place a greater emphasis on obtaining employment for claimants.
14. The Employment Security Commission should establish outcome measures for claimants identified as likely to exhaust their benefits. These measures should include determining whether the claimant exhausted his benefits or obtained employment.
15. The Employment Security Commission should establish goals for its job developers, including goals for obtaining new job orders.

Claimants Not Registered in JobLink

Between January 2008 and July 2009, ESC did not stop the unemployment benefits of claimants who did not register in the agency's JobLink system as required. Even after these individuals were identified, ESC did not take action to stop their benefits. In addition, ESC's online claim filing allowed South Carolina residents to file for unemployment claims without registering in JobLink, as required.

One of the requirements for individuals receiving unemployment compensation is that they be registered in the agency's JobLink database. The JobLink computer system is ESC's system for registering the unemployed, underemployed, and others for work. ESC uses the JobLink system to match claimants, veterans, disabled workers, and others with available jobs.

Prior to the implementation of JobLink in January 2008, an automated process was in place to stop the benefit payments of claimants who did not register for work. Claimants were given 14 days to register. Claimant files were then cross-checked, and those claimants who had not registered for work were denied benefits until the registration was completed.

After JobLink was implemented, ESC discovered that the interface between the JobLink system and the unemployment system, the Automated Benefit Payment System (ABPS), was not functioning properly. Some claimants were having their unemployment checks stopped even though they had registered in JobLink. As a result of these problems, the interface was disabled until the problem could be corrected.

ESC paid an outside contractor approximately \$80,000 to fix the interface between the ABPS and JobLink systems. According to agency officials, the interface was completed and installed in October 2008, but other technical issues kept ESC from turning the interface on until July 2009.

The percentage of claimants not registered in JobLink fluctuated by month. Table 3.2 shows the number and percentage of total claimants not registered in the months of September and December 2008, and March 2009.

Table 3.2: Claimants Not Registered in JobLink

DATE	TOTAL UI CLAIMANTS	CLAIMANTS NOT REGISTERED	PERCENT NOT REGISTERED
09/30/2008	105,390	8,023	7.6%
12/31/2008	154,036	12,135	7.9%
03/31/2009	203,640	14,033	6.9%

Source: ESC

Between October 2008 and June 2009, ESC sent letters and directly contacted the claimants they identified as needing to register in JobLink. Claimants were sent letters in October 2008 with instructions on how to register. These letters stated, "...failure to register for work may affect your benefits" (emphasis added). Claimants were contacted directly by workforce center staff in January 2009 and April 2009. Although many claimants did register based on the letter and direct contacts, there were no penalties for claimants who did not register, and these claimants continued to receive their unemployment checks. Finally, letters were mailed in June 2009 informing claimants that their benefits would be stopped if they failed to register in JobLink.

Online Claim Filing

Also during this time period, ESC created an online claim system on its website that included an option which allowed individuals to file a claim for unemployment without registering for work. This option was only intended for out-of-state residents who had worked in South Carolina but recently moved to another state. Out-of-state claimants are not required to register in JobLink, since they do not physically reside in the state. However, ESC did not have any controls in place that prevented South Carolina residents from selecting the option to file for unemployment compensation only. As a result, many South Carolina residents filed for unemployment compensation, but did not register in JobLink as required.

In June 2009, ESC updated its website to inform South Carolina residents that they must register for work when filing an unemployment claim. ESC also created a process that stops claimants' unemployment checks if they are South Carolina residents and have not registered for work in JobLink.

Conclusion

ESC allowed claimants who were not registered in JobLink to collect unemployment benefits. Even after ESC had identified these individuals, the agency did not take action to stop their benefits until July 2009, almost 18 months after the problem was initially discovered. As a result, a significant percentage of claimants were receiving unemployment benefits from January 2008 through July 2009 who did not register for work as they were required. In addition, claimants that are not registered may not be referred to jobs for which they could qualify or services which they need to find employment.

Recommendation

16. The Employment Security Commission should ensure that claimants register in the JobLink system. Claimants who do not register should have their unemployment benefits stopped until they are registered for work.

Recording Services in JobLink

We reviewed allegations that ESC offices record services in their JobLink system even though those services were not provided. We could not confirm those allegations, but found that the recording of services into JobLink could be improved in order to ensure that services are actually being provided. We found that ESC's customers are being provided the same services multiple times without determining the need for the services.

ESC sent a memorandum in February 2009 to area directors and field supervisors stating that career center services should be recorded in JobLink only as they are provided. For example, if a customer conducts a job search using JobLink, that person should be recorded as receiving the "career center service." If a customer receives an overview of services and programs available at the workforce center, an "assessment orientation" should be recorded.

We reviewed a sample of individuals who received services that were recorded in JobLink. That sample includes examples of individuals who received multiple instances of the same services. One individual received six assessment interviews and six assessment orientations between September 2007 and February 2008. An "assessment interview" is defined by ESC as:

Providing a service through interviewing, to determine each participant's employability, aptitudes, abilities and interests and to develop a plan to achieve the participant's employment and related goals.

An “assessment orientation” is defined as a:

....service that provides applicants with an overview of program and services available, the criteria and requirements for program participation and receipt of services and an understanding of the options and requirements. Orientation may be individual or in group sessions, and could provide information on services available, including other community services, and completing forms.

More recent examples indicate that the provision of the same service multiple times is ongoing. An ESC official could not explain why a person would require those services multiple times and stated that individual offices might have different methods of counting services.

Recommendation

17. The Employment Security Commission should ensure that services provided to claimants are necessary and properly recorded in JobLink.
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Migrant Seasonal Farm Worker Program

The Employment Security Commission’s Migrant Seasonal Farm Worker (MSFW) program serves as the labor exchange for migrant seasonal farm workers in South Carolina. We found that ESC needs to more accurately report the results of the MSFW program. ESC counts migrants who obtain jobs through this program as job placements, even though almost none of the migrants are claimants and some of the jobs last for less than three days. In addition, migrants who obtain jobs through the MSFW program are counted as “staff assisted” placements, even though they are only placed into the JobLink system after they obtained employment.

The MSFW program refers migrant workers to agricultural employers. According to ESC officials, the MSFW program takes job orders from agricultural employers. ESC then contacts migrant worker crew chiefs about those job openings. If the crew chief agrees to fill the order, a MSFW program employee will visit the employer on the date the workers report to the employer and registers the workers. These workers then count as staff-assisted job placements. According to ESC officials, these workers are generally not claimants seeking unemployment benefits.

We examined the MSFW program’s methods of counting job placements. We found examples of the MSFW program counting workers who had been placed on a job for three days or less as job placements. We estimate that almost 4% of ESC’s migrant placements from July 1, 2006 to June 30, 2007,

were migrant workers placed on jobs for 3 days or less. Using the same data, we estimate that 8% of ESC's migrant placements obtained jobs for over 150 days. Table 3.3 shows the number of placements for July 1, 2006 to June 30, 2007 by length of job.

Table 3.3: Migrant Seasonal Farm Worker Placements by Length of Employment

LENGTH OF EMPLOYMENT	NUMBER OF PLACEMENTS
0 to 3 days	118
4 to 150 days	2,687
Over 150 days	256

Source: ESC Employment and Training Division

ESC also states that if a single migrant worker is placed in multiple jobs (i.e. one job for 3 days and another for 150 days), then this counts as two job placements.

According to an ESC official, prior to 2008, ESC used a "weighted" system for counting the job openings filled by migrant workers. Under this system, ESC counted jobs filled according to their duration. If a job lasted one day, that job would be counted less than a job that lasted a full year. ESC ceased using a weighted formula to count jobs filled due to the transition to a new operating system that did not produce this information.

Conclusion

Job placements filled by migrant workers comprised about 15% of ESC's total placements. Since most of these workers are not claimants, ESC resources are being used for the purpose of assisting individuals who are not unemployed. In addition, some of these jobs may last only three days and some workers are counted as placements more than once.

Recommendation

18. The Employment Security Commission should report its method of counting job placements for the Migrant Seasonal Farm Workers program in its annual accountability report and clearly note the number of jobs filled by these workers in relation to the overall total number of job openings filled by the Employment Security Commission.

Management and Administrative Processes

During our review, ESC began recruiting for a new executive director. A goal for new management should be to conduct a thorough review of the agency's mission, how business practices support the agency's mission, and how to ensure public confidence in the agency's ability to serve employees and businesses. Our review found a number of processes that should be closely examined by the new director to ensure the agency's reserve funds are properly maintained, accounting controls are instituted, the internal audit function is strengthened, information technology issues are addressed, and that management processes are effective.

Agency Governance

Three commissioners, appointed by the legislature to four-year terms, govern ESC and one commissioner is elected as chairman. The executive director of ESC is appointed by the commission. We reviewed the structure of the agencies that oversee unemployment programs, also known as workforce agencies, in seven other southeastern states. With the exception of Georgia, where the labor commissioner is an elected position, the Governor in each state has greater authority over the state's workforce agency than in South Carolina. We found:

- Both Alabama's Department of Industrial Relations and Tennessee's Department of Labor and Workforce Development are cabinet-level agencies.
- In Florida, the director of the Agency for Workforce Innovation is appointed by the Governor.
- In Kentucky, the unemployment program is administered through the Office of Employment and Training which resides in the Department of Workforce Investment. The department's director is appointed by the Governor.
- In Mississippi, the Governor appoints the executive director of the Department of Employment Security.
- In North Carolina, the Employment Security Commission is governed by a seven-member commission appointed by the Governor.

South Carolina's form of governance is unique among the southeastern states.

In South Carolina, the three-member commission hears appeals of unemployment claims. In calendar year 2008, the commission heard 1,528 appeals. While all other southeastern states we reviewed have a similar appellate body, only in South Carolina is this body appointed by the legislature. In Mississippi, the agency director appoints the members and in the remaining states, the Governor appoints the members.

We also reviewed other states to determine if they had any specific qualifications for their commissioners. We did not find any educational requirements. However, in three states (Alabama, Florida, and Kentucky), there are requirements that commissions include representatives from employers, employees, and the general public. In Kentucky, a commissioner must be at least 30 years old.

In 2004, Mississippi restructured its Employment Security Commission and placed the Department of Employment Security under the supervision of the Governor. Restructuring South Carolina's Employment Security Commission could lead to increased oversight and greater accountability.

Recommendation

19. The General Assembly should consider restructuring the Employment Security Commission. The options to consider include:

- Making the commission a cabinet agency with an executive director appointed by the Governor with the advice and consent of the Senate. The director would be responsible for appointing an appeals board which would replace the three-member commission and only hear appeals of agency decisions.
- Allowing the Governor to appoint the executive director with the commission being appointed by the General Assembly. The commission would be limited to hearing appeals of unemployment insurance decisions.
- Allowing the Governor to appoint commission members with the advice and consent of the Senate. The commission would be responsible for appointing an executive director.

Process for Notifying State Officials

One of our objectives was to examine the adequacy of ESC's process for notifying state officials of the financial adequacy of the Unemployment Insurance (UI) Trust Fund. We found that while management has provided annual assessment reports concerning the UI fund since 1999, as required by law, the agency has not fully complied with its statutory reporting requirements. In addition, management did not aggressively pursue changes to alleviate the decline in its reserves until insolvency was inevitable.

Assessment reports provide information concerning the amount of funds in the UI trust fund. However, the reports did not provide trend data to show the seriousness of the declining balance, and made no recommendations to shore

up the reserves as required by law. State law requires the commission to report to the General Assembly, as described below:

Section 41-29-280 requires a report by January 15 of each year which is to include any recommendations for change needed to improve the state's unemployment insurance program. It also states:

Such reports shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserves shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity and other relevant factors for the longest possible period.

Section 41-29-290 of the S.C. Code of Laws states:

Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund it shall *promptly* so inform the Governor and the General Assembly *and make recommendations with respect thereto* (emphasis added).

Section 41-33-45 of the S.C. Code of Laws states:

The commission shall report, by October first of each year, to the Senate Finance Committee and to the House Ways and Means Committee the amount in the unemployment trust fund and make an assessment of its funding level.

We reviewed the annual assessment reports from 1999 through 2009. We found that, beginning in 2001, the report summary noted that the trust fund reserve did not meet the 2.0% reserve level. Also in 2001, ESC proposed that, in conjunction with the legislature and business leaders, a review be conducted of reserve requirements and the UI tax rate structure. However, according to an ESC official, no such review was undertaken.

Each year thereafter the report shows the reserve ratio was declining and did not meet the recommended level. Table 4.1 shows the actual reserve ratio as well as the required reserve amount. As shown in the table, the reserve ratio has been below the 2% level since 2001 and the difference between the actual reserve amount and the recommended level has increased from \$52 million in 2001 to over \$1.3 billion in 2009.

Table 4.1: Actual Reserve Ratio and Reserve Amounts

FISCAL YEAR	TRUST FUND BALANCE	ACTUAL RESERVE RATIO*	RESERVE AMOUNT**	DIFFERENCE
98-99	\$798,931,615	2.0440%	\$759,470,966	\$39,460,649
99-00	\$835,436,018	1.9998%	\$814,009,586	\$21,426,432
00-01	\$783,127,019	1.8495%	\$835,222,788	(\$52,095,769)
***01-02	\$666,017,227	1.5760%	\$828,063,063	(\$162,045,836)
02-03	\$524,147,836	1.2030%	\$837,583,245	(\$313,435,409)
****03-04	\$420,680,629	0.8980%	\$870,027,678	(\$449,347,049)
04-05	\$380,743,147	0.7730%	\$921,072,651	(\$540,329,504)
05-06	\$366,115,753	0.6980%	\$982,701,299	(\$616,585,546)
06-07	\$326,779,113	0.6010%	\$1,027,623,488	(\$700,844,375)
07-08	\$229,006,482	0.3830%	\$1,060,387,734	(\$831,381,252)
08-09	(\$317,266,975)	-	\$1,013,983,471	(\$1,331,250,446)

* Computed by dividing the balance in the trust fund by total wages paid in the state.

** In SC, the recommended reserve is 2% of total wages paid in the state.

*** Year tax surcharge took effect.

**** Year tax surcharge increased to its maximum level.

Source: 1999 through 2009 UI Trust Fund Annual Assessment Reports and UI Trust Fund audited financial statements

Also, beginning in 2001, the report notes that it is necessary to implement a tax surcharge because the reserve level is inadequate. This surcharge reached its maximum level in 2004. Beginning in 2005, ESC noted that if "...the unemployment rate continues to decline and there are no unforeseen economic downturns...the Unemployment Trust Fund is projected to remain solvent through CY 2007." However, the report further added that, if there is another natural disaster like Hurricane Hugo or if the economy experiences a significant downturn, the trust fund would become insolvent. This presentation of best and worst case scenarios continued until 2008 when the report stated that the trust fund would become insolvent.

While each year the assessment reports contained information showing the declining status of the fund, the reports contained no recommendations for addressing trust fund reserves until 2008. ESC officials did state that they began meeting with legislative leaders or staff concerning the status of the fund in January 2006. Table 4.2. shows the year and number of meetings held.

**Table 4.2: Meetings With
Legislative Leaders or Staff**

YEAR	NUMBER OF MEETINGS	MEETING DATES
2006	1	Jan. 9
2007	3	Jan. 17; Jan. 24; Mar. 22
2008	6	Aug. 25; Sept. 9; Sept. 23; Sept. 25; Nov. 13, Dec. 22

Source: ESC

In addition ESC prepared information for legislative leaders in 2006, 2007, and 2008 showing the level of the trust fund and the impact of raising the taxable wage base but only the 2008 packet contained options for addressing the solvency of the trust fund.

Notification Concerning Extended Benefits

As early as February 2009, ESC was aware of the need to amend state law in order to ensure that unemployment benefits were extended, but management did not notify the commission or the General Assembly.

ESC failed to notify the General Assembly of the need to amend state law in order to provide the state's unemployed up to 20 additional weeks of federally-funded unemployment benefits. ESC was aware of the need to change the law as early as February 2009, but took no action. As a result, it was necessary for the legislature to return in October 2009 to amend state law to obtain these benefits.

In March of 2009, the state extended benefit (EB) program went into effect. This program adds an additional 13 weeks of unemployment benefits in addition to benefits already provided. The federal government normally funds half the cost of this program with the state (using UI taxes) funding the other half. However, as part of the federal stimulus package, the EB program was fully funded by the federal government.

The EB program takes effect, or is "triggered," when the unemployment rate in a state reaches a certain level. All states are required by law to adopt a trigger for the EB program. South Carolina was using the 5% insured unemployment rate as its trigger. The insured rate is the percent of the workforce receiving unemployment benefits whereas a state's total unemployment is the percent not working, whether they are receiving benefits or not.

Federal law enacted in February 2009 encouraged states to adopt the total unemployment rate as the trigger. The law also increased the number of weeks of benefits from 13 to 20. The federal Department of Labor also notified states in February 2009 that they should amend state law to include

the optional total unemployment rate trigger. Twenty-one of the 23 states that could adopt this trigger did. Only South Carolina and Mississippi did not.

According to agency officials and documents we reviewed, the need to amend state law was discussed by ESC's executive staff during meetings in February, March, and April, but it was determined a change was not needed. We found no evidence to indicate that ESC's commissioners were informed of the need for a change nor did ESC submit any proposed legislation to implement the change. However, a separate bill was introduced in April 2009 to amend state laws to include the total unemployment rate trigger, but it did not pass.

In late 2009, South Carolina's insured unemployment rate dropped below 5%, resulting in the EB program being stopped. Without the change in state law, individuals were no longer eligible for up to 20 weeks of additional unemployment benefits. Legislation was passed in October 2009 to include the total unemployment rate trigger and the EB program again took effect.

Conclusion

ESC's process for notifying the General Assembly and Governor of issues facing the agency needs improvement. State law requires ESC to promptly inform the Governor and the legislature of the status of the trust fund and make recommendations to protect its solvency. ESC has not been proactive in ensuring that the trust fund remains solvent. Although the trust fund's reserves have declined every year since 2001, ESC did not make recommendations to address the solvency of the fund until 2008, when it was too late to prevent insolvency.

Recommendations

20. The Employment Security Commission should revise its process for notifying the Governor and the General Assembly of issues impacting the solvency of the Unemployment Insurance Trust Fund to ensure that it complies with state law regarding the prompt notification of state leaders if changes are needed to protect the solvency of the trust fund.
21. The Employment Security Commission should provide an annual legislative package to the General Assembly that clearly discloses all major issues impacting the agency and makes recommendations to address these issues. The package should be amended if additional issues are identified.

Investigation of Allegations of Mismanagement

Allegations that management directed staff to violate policy were not properly investigated.

Our review indicated that claimants who did not attend workshops during a two-week period did not have their benefits stopped as required.

We reviewed ESC's handling of allegations of mismanagement at one of its workforce centers and found that ESC did not properly investigate these allegations, as required by policy.

In 2008, staff at one of ESC's workforce centers alleged that claimants who did not attend mandatory workshops were not having their unemployment checks stopped, as required by agency policy. In addition, staff alleged they were instructed to enter services for claimants who were about to exit the agency's JobLink system, even though the claimants had not received any services (see p. 49).

Agency policy describes the process that should occur when these types of issues are raised. A 2007 memo from ESC's executive director states that:

Upon discovery of any fraudulent conduct or malfeasance by an Agency employee, the Internal Audit and Review Director and the Human Resource Director are to be informed immediately. The Internal Audit and Review Department is responsible for directing the investigation and reporting of allegations of fraud, criminal misconduct, misapplication of funds and gross mismanagement on the part of agency employees. The HRM Department is responsible for directing the investigation and reporting of all other types of employee misconduct.

In addition, ESC's security orientation policy states that "Irregularities involving SCESC employees are reported to IA&R (internal audit and review) for investigation."

At the request of the agency director, staff from ESC's human resources (HR) department interviewed the staff of the workforce center. The report included the two allegations discussed above. ESC's internal auditor was not made aware of these allegations and was not provided a copy of the report prepared by agency HR staff which contained these allegations. We found no evidence that ESC attempted to verify the allegations of fraud. In addition, central office staff that was alleged to have been involved in instructing local office staff to violate policy was sent to the local office to monitor the office.

During the course of our review, we requested information from ESC to determine whether claimants who did not attend reemployment workshops were having their checks stopped, as required by agency policy. According to agency officials, if a claimant does not attend a scheduled workshop, then a "61" issue will be entered that day, placing a stop on the claimants' check. ESC provided printouts of claimants scheduled for the reemployment workshop for the period March 14, 2008 through April 25, 2008. This documentation showed that for workshops scheduled for April 18 and

April 25, claimants who did not attend did not have their unemployment checks stopped in a timely manner.

Recommendation

22. The Employment Security Commission should ensure that all allegations of mismanagement are reviewed by the agency's Internal Audit and Review Department.

Duties of the Internal Auditor

During our audit, we examined the responsibilities of ESC's Internal Audit and Review (IA&R) Department. We found that the internal auditor has a limited role in monitoring or overseeing critical aspects of ESC's operations. The department had no role in monitoring or reporting on the status of the Unemployment Insurance Trust Fund and has not been involved in preparing or reviewing the annual assessment report on the fund.

The duties of an internal auditor are to conduct a systematic, objective appraisal of the diverse operations and controls within an agency. This includes ensuring that:

- Agency financial and operating information is accurate.
- Risks to the agency are identified and minimized.
- Performance standards are met.
- Agency policies and procedures are followed.
- Resources are used efficiently.
- Organizational objectives are achieved.

As discussed on page 59, ESC management has prevented the agency's internal audit department from performing some functions. A strong internal audit department could assist ESC management in identifying issues and areas of agency operations that need improvement.

Recommendation

23. The Employment Security Commission should re-examine the role of the Internal Audit and Review Department to ensure it has a role in monitoring and overseeing all critical agency functions.

Information Technology Issues

During the course of our review, a number of issues arose concerning ESC's use of information technology. The following list summarizes those issues:

- ESC does not currently have a written agency-wide information technology plan. The current planning process is on a project-by-project basis without an overall plan to address information technology issues.
- ESC's controls over its benefit payment process could improve. Twice during our review ESC issued duplicate unemployment benefit checks to claimants.
- ESC's JobLink system was not properly implemented. As a result, claimants were allowed to collect unemployment benefits without being registered for work (see p. 47).
- ESC's benefit payment system was not set up to allow more than 79 weeks of benefit payments to jobless workers. When a federal extension was granted giving the unemployed up to 99 weeks of benefits, ESC's system was unable to accommodate the extension in a timely manner. ESC's IT staff was required to perform additional programming of its benefit payment system, causing at least a two week delay. In addition, according to agency officials, ESC could not make use of outside experts to assist in programming the computer because of the age of the system.
- ESC lacks detailed data on appeals. While the agency knows whether an appeal heard by the commission is reversed or modified, it cannot provide detailed information on the number of appeals completely reversed versus those only modified. Also, ESC does not have detailed data on appeals of misconduct claims to the commission. For example, these claims cannot be broken down into categories such as drug abuse, assault, excessive absences, etc.

ESC has joined a consortium of four other states to conduct a feasibility study to assess the need for a new benefit system. The study is estimated to take 18 months and implementation of a new system is likely years away. This is funded through a grant from the U.S. Department of Labor. According to an agency official, ESC will also receive \$6.9 million in federal stimulus funds for information technology needs. Without an overall plan to address its needs, these funds may not be used in the most efficient manner.

Recommendation

-
24. The Employment Security Commission should conduct an in-depth study of its overall business requirements and its current information technology capabilities that supports these functions. The agency should consider developing a multi-year agency-wide strategic business plan that efficiently and effectively supports the commission's business functions, its management information needs, and its information technology requirements.
-

Repeat Accounting Issues

We reviewed the agency's most recent financial statements and noted that the external auditors cited the commission for not maintaining accounting records in accordance with Generally Accepted Accounting Principles (GAAP). The auditors considered the noncompliance as a "material weakness," which applies to the internal control over financial reporting for the most current three years' audits, ending with the fiscal year audit of June 30, 2008.

The auditors found the agency did not properly post adjusting entries, maintain complete trial balances, or perform periodic analyses of them, and recognized revenue in the wrong year. These findings are considered "material weaknesses," which are weaknesses that result in the possibility that the non-compliances would not be prevented or detected by the entity's internal controls.

Nonetheless, the auditors issued unqualified opinions for all three years in their audit of the agency's financial statements, indicating that the financial statements "present fairly, in all material respects, the respective financial position... of the trust fund and the agency operations."

Recommendation

-
25. The Employment Security Commission should hire qualified staff to perform all necessary accounting functions of the commission.
-

Commuting in a State Vehicle

We reviewed the use of a state vehicle by ESC's executive director and found that the agency has not been reimbursed for commuting mileage. We identified 159 trips which included commuting.

State law concerning the use of state vehicles includes an objective to eliminate unofficial and unauthorized use. This includes personal use, such as commuting. State law requires employees who are permanently assigned a vehicle to reimburse the state for any commuting between home and work. An appropriations act proviso states that commuter mileage on non-exempt state vehicles is considered income. The IRS considers commuting between residence and work station as personal use.

We reviewed vehicle trip logs from FY 06-07 through FY 08-09 to determine if state vehicles were used for commuting. We found 159 trips when the executive director commuted in a state vehicle from his residence. While ESC reports no vehicles as permanently assigned, we found that in 121 (76%) of the 159 trips which included commuting, the director was the sole occupant of the vehicle. In addition to commuting, trip logs indicate the director was making local office visits, or attending meetings, including Workforce Investment Board meetings, area meetings, meeting with legislators and the Governor's staff. These meetings either took place in Columbia or included Columbia as a destination.

According to ESC, the three previous executive directors commuted in a state vehicle. These directors reimbursed the agency for commuting use of the state vehicle. After reviewing agency documents, we could find no evidence of reimbursement by the executive director for personal use of the vehicle.

Recommendation

26. The Employment Security Commission should prohibit commuting in state vehicles. If commuting is allowed, employees should be required to reimburse the agency.

Chapter 4
Management and Administrative Processes

Agency Comments

COMMISSIONERS
J. William McLeod
Becky D. Richardson
McKinley Washington, Jr.

INTERIM EXECUTIVE DIRECTOR
Samuel R. Foster
803-737-2617



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1550 Gadsden Street
P. O. Box 995
Columbia, S.C. 29202

January 20, 2010

Mr. Thomas J. Bardin, Jr.
Director
Legislative Audit Council
1331 Elmwood Avenue, Suite 315
Columbia, SC 29201

Dear Mr. Bardin:

The South Carolina Employment Security Commission is submitting its response to the Legislative Audit Council's draft report dated January 12, 2010. Should there be questions or comments related to the report, as submitted, please let us know.

Sincerely,

Samuel R. Foster
Interim Executive Director

SRF:bs

cc: Commissioner McLeod
Commissioner Richardson
Commissioner Washington

ESC-1
Enclosure

**A Management Review of the
South Carolina Employment Security Commission by
S.C. Legislative Audit Council**

Response to Recommendation Number 1 from Page 22:

A five year trend chart that shows the Unemployment Reserve Fund's balance at the end of each year will be included in our annual Trust Fund assessment. The chart will compare the ending balance with the minimum reserves needed to withstand both an "average recession" and a "severe recession". The terms "average" and "severe" would need to be defined and/or understood to represent a pre-determined level of insured or total unemployment rate.

Response to Recommendation Number 2 from Page 22:

When the assessment reports indicate the trust fund reserve level is less than the minimum needed, the agency will provide recommendations necessary to increase the reserves. It should be noted that the Department of Commerce has hired The Lucas Group who, in turn, has hired an actuarial to address this issue

Response to Recommendation Number 3 from Page 28:

We can seek outside professional assistance to assist with providing recommended tax changes to the General Assembly. The actuarial hired by The Lucas Group has contacted the Actuarial Service of the Department of Labor who we have worked with at no cost

Response to Recommendation Number 4 from Page 32:

The General Assembly will need to address.

Benefits after disqualification: South Carolina and ten other states impose a disqualification for a number of weeks for "misconduct" separations. Requalification requirements for the other states range from returning to work and earning three times the weekly benefit amount or working four weeks and earning four times the weekly benefit amount to earning seventeen times the weekly benefit amount.

While South Carolina may be in the minority of states with respect to paying benefits after disqualification, we have fewer exceptions for what constitutes "misconduct" or good cause for voluntary leaving.

The examples given of individuals who received benefits after disqualification omits the fact that in the examples provided, an individual who received \$3,586.00 in

benefits may have been disqualified for \$4,890.00 in benefits. Likewise, the individual who received \$5,868.00 in benefits after a disqualification for absenteeism omits the fact that he may have been disqualified for \$2,608.00. Moreover, the claimant's incarceration was not connected with the employment (otherwise he would have been disqualified for more than eight weeks). People are put in jail for various reasons, some for allegations later withdrawn. S.C. Code § 41-35-120 (2) imposes disqualifications for "cause connected with the work." The cause connected with the work in that case was being absent from work. Finally, the individual who received \$2,440.00 after a disqualification for a job-related threat might have been disqualified for \$7,930.00 or might have lost sixteen weeks in benefits. Since the individual claim information has not been provided, we don't know what these examples really mean.

Each claim is decided on its own particular facts. One party's view of those facts might suggest an egregious result, while the other party's view might suggest an equally egregious result in the other direction. The agency is charged with making decisions about human behavior in conditions of stress. However, those conditions also have a context, a context which sometimes involves many years in an employment relationship.

Response to Recommendation Number 5 from Page 34:

The General Assembly will need to address.

Job-Attached Claims: Job-attached unemployment has been an historical part of the Employment Security Law. It was based on an effort to assist employers to keep trained workers.

This process also recognized that sometimes employers had regular shutdowns and expected workers to return to work afterward. Under § 41-27-370 (3) and (4) employees on paid vacation were not "unemployed," and employers, who had a regular closing, could file "vacation" policies with the agency that would allow up to two weeks of unpaid "vacation" to be considered as not unemployed.

It may be that this effort has outlived its usefulness and should be eliminated. However, the agency has been doing what that statutory scheme required.

Response to Recommendation Number 6 from Page 40:

All cases of significant claimant and employer fraud will be referred to appropriate authorities to determine if criminal charges are warranted. In the past the agency has referred fraud overpayment in the Federal programs, UCX (Ex-Military), UCFE (Ex-Federal Employee), and DUA (Disaster Unemployment Assistance), to the Office of Inspector General for prosecution. The OIG set parameters of at least \$1,000.00 overpayment for cases to be referred to them. The OIG eventually discontinued taking these cases as they chose to pursue other forms of fraud that had a higher profile. Recently the OIG has contacted our agency and advised that they are now

accepting cases for prosecution. We have started identifying Federal program fraud overpayments that can be prosecuted by the OIG.

Response to Recommendation Number 7 from Page 40:

We will consult with the Attorney General's Office regarding the establishment of an agreement on when and how to refer fraud cases for possible prosecution.

Response to Recommendation Number 8 from Page 40:

We will revise procedures so as to ensure fraudulent debt will not be written off until criminal prosecution has been pursued. We will also evaluate how long cases referred for prosecution take to come to trial and how quickly they pay out after a conviction in order to determine a reasonable length of time before debts are written off or whether or not fraud cases should ever be written off.

Response to Recommendation Number 9 from Page 43:

We currently follow all US Department of Labor guidelines as they relate to screening applicants in the referral process. Applicants are matched and referred according to the specific job order criteria provided by the employer.

Response to Recommendation Number 10 from Page 43:

We currently follow all US Department of Labor guidelines as they relate to screening applicants in the referral process. Applicants are matched and referred according to the specific job order criteria provided by the employer.

Response to Recommendation Number 11 from Page 43:

The agency has always disqualified individuals who refuse offers of suitable work. The only way we have been able to do so is if the employer makes us aware of a bona-fide offer of work being made. Whenever we have been made aware of a refusal of a job offer through this process, we have disqualified individuals. Another consideration is whether or not the offer is reasonable (i.e. suitable). To require that all job offers be accepted is an issue that we believe merits further discussion.

We do disqualify claimants who do not go to an interview when we refer them. If a claimant does not go to an interview and we are notified by the local Workforce Center of his failure to go, we would enter an issue on his claim and adjudicate it as such. However, the local Workforce Center may enter an able and availability (A & A) issue.

Response to Recommendation Number 12 from Page 43:

Title 38 Chapter 41 United States Code is the only legal reference to priority of service to any applicant group. This is specific to priority of service for veterans. When we receive a job order from an employer, we search for candidates that meet the job requirements. These candidates may be unemployed, employed or underemployed. The three US Department of Labor Common Performance Measures for our Wagner-Peyser program are Entered Employment Rate, Employment Retention Rate and Average Six Month Earnings. Although placement of claimants, placement of veterans nor placement of universal individuals is a Common Performance Measure, we at the SCESC have continued to put emphasis on direct placement of these groups as a way to measure real time performance, unlike the nine month lag time with the entered employment common measurement as prescribed by the USDOL.

State law could be pursued as long as it was not in violation of Federal Law i.e. EEO and the WIA State Plan would have to be modified to reflect this.

Response to Recommendation Number 13 from Page 46:

The three US Department of Labor Common Performance Measures for our federally funded Wagner-Peyser program are Entered Employment Rate, Employment Retention Rate and Average Six Month Earnings. Placement of claimants is not a federal performance measure.

Response to Recommendation Number 14 from Page 46:

For claimants identified (through profiling) as likely to exhaust benefits, measures are in place to determine whether these claimants actually exhausted benefits or whether they obtained employment. We are currently capturing selected aggregate outcomes pertaining to profiled claimants and reporting this quarterly on the ETA 9048 and ETA 9049 report. A closer analysis of this information will be performed to monitor the effectiveness of the program.

Response to Recommendation Number 15 from Page 46:

While not a required measure of the Job Developer position, we will explore goals for our Job Developers based on Labor Market conditions.

Response to Recommendation Number 16 from Page 49:

For claimants who do not register in the JobLink system a control measure is currently in place to stop their benefits until they are registered for work. Attached is a sample copy of the 07 issue report that is generated for each office to identify these claimants. (See Attachment # 1)

The majority of claims are filed online. There are occasions where claims can be filed by phone and/or paper. These options are also available. When a claimant files a claim they must either register for work or update their current registration within 14 days. If the customer has not met this requirement, the system will generate a 07 issue which will stop benefits until the requirement is satisfied.

Response to Recommendation Number 17 from Page 50:

We concur and will continue to ensure that services provided to claimants are necessary and properly recorded in JobLink.

Response to Recommendation Number 18 from Page 51:

We concur to report the method of counting job placements for the Migrant Seasonal Farm Worker program openings filled in the annual accountability report and to clearly note the number of jobs filled by these workers in relation to the overall total number of placements job openings filled by ESC.

Response to Recommendation Number 19 from Page 54:

Management does not concur with this recommendation and feels that the General Assembly should continue with the current system that has worked most effectively for the state in the last 73 years.

The Employment Service and Unemployment Insurance System were created in 1933 by the federally legislated Wagner-Peyser Act. On June 6, 1936, the South Carolina Unemployment Compensation System (later to become the SC Employment Security Commission) was created by the State Legislature. The bill, signed by Gov. Olin Johnston, provided for three commissioners elected by the Legislature for the purpose of finding jobs for unemployed persons and paying unemployment compensation.

The role of the Employment Security Commission has evolved through the years as it carries out its primary mission of matching job seekers with employers as quickly and effectively as possible. The Employment Security Commission is funded by the federal government. The agency's duties and responsibilities were meant to be consistently administered and not affected by the changes often made for purely political reasons when gubernatorial administrations are turned over.

Response to Recommendation Number 20 from Page 58:

The Governor and General Assembly will continue to be notified of any issues impacting the agency through the annual Trust Fund Assessment and the Financial Audit required by OMB Circular A – 133 as well as meetings with the Governor and the leadership of the House and Senate.

Response to Recommendation Number 21 from Page 58:

The Agency will provide an annual legislative package to the General Assembly that clearly discloses all major issues impacting the Agency.

Response to Recommendation Number 22 from Page 60:

Management will ensure that all allegations of mismanagement are reviewed by the agency's internal audit department.

Response to Recommendation Number 23 from Page 60:

The recently designated Interim Executive Director, Mr. Samuel Foster, following assessment discussions with Mr. Abraham Khalil, Director of Internal Audit and Review, immediately authorized Mr. Khalil to create a position for another staff person in his department to address critical internal audit functions.

The position description was delivered for processing to the ESC Human Resource Management Department for subsequent approval by the State Office of Human Resources within the State Budget and Control Board. With this authorization and the support of senior leadership, Internal Audit and Review will be better positioned to monitor and oversee critical agency functions. (See Attachment # 2)

Response to Recommendation Number 24 from Page 62:

An agency-wide strategic planning initiative will be conducted by the Employment Security Commission. This study will include all areas so that IT priorities can be better matched to business objectives.

Response to Recommendation Number 25 from Page 62:

The agency has hired a private CPA Firm (See Attachment # 3) to assist staff with the compilation of the Agency Trial Balances and Financial Statements. This Firm will work with the Finance Staff to ensure proper accruals, adjusting journal entries and financials are provided.

The Unemployment Insurance Division has hired a certified public accountant and has taken steps to ensure our Trust Fund accounting records are maintained in accordance with Generally Accepted Accounting Principles (GAAP). The UI CPA was hired on September 23, 2009.(See Attachment # 4)

The hiring of a CPA to work in the Department of Finance has been authorized. The attached Position Description has been approved by the Office of Human Resources. The position will be posted and filled. (See Attachment # 5)

Response to Recommendation Number 26 from Page 63:

The Agency has developed and implemented the following policy regarding commuting:

“Whereas the position of Executive Director warrants assignment of an agency owned vehicle, this vehicle may be used by the Executive Director to commute between home and work. When using an agency owned vehicle to commute, the

Executive Director shall be required to reimburse the state for commuting miles. The Executive Director shall maintain an approved log to establish commuting versus business related mileage and submit said log monthly to the motor pool manager along with appropriate reimbursement.” (See Attachment # 6)

Labor Exchange Performance Measures

Although not included in the Legislative Audit Council report, we feel it is appropriate to include our Agency’s performance as it relates to standards established by the US Department of Labor.

Our Entered Employment Rate measurement has exceeded our DOL Region’s average each quarter this past year. Of the eight (8) states in the Southeast Region, we (SCESC, South Carolina) have come in second (2nd) for three of the four quarters and third (3rd) for one of the four quarters. Our Entered Employment Rate for UI Claimants exceeded the National and Regional average for all four quarters. (See Attachment # 7)

Attachment #1

Attachment #2

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
Recommendation Form



Employee/Applicant and Position Data:

Name Vacant Cost Center Name Internal Audit and Review Cost Center No. 5250
Social Security No. _____ Funding Source 9998
Position Title Accounting/Fiscal Manager I
Hire Above Minimum \$ _____ Slot Number _____
Pay Band/Level 7/C For Pay Band 5A and above Name _____
Name of Former Occupant _____ Name _____
Rank in Office Manager ☐ Asst. Manager ☒ Unit Supv. ☒ Other _____

Position Type:

FTE ☒ Temporary Grant ☐ Temporary ☐ Part-time ☐

Complete Unless FTE Was Checked Above:

Duration: Temporary Grant End Date _____ Hourly Paid - 12 Months ☐ Other _____

Reason For Request:

Request to re-establish position #46958 in CC# 5250 (Internal Audit and Review) as an 7/C
Accounting/Fiscal Manager I. A proposed position description is attached.

For Human Resources Only:

- | | | |
|--|--|---|
| <input type="checkbox"/> Temporary Appointment | <input type="checkbox"/> Promotion | <input type="checkbox"/> Transfer of Slot |
| <input type="checkbox"/> Temporary Extension | <input type="checkbox"/> Additional Duties | <input type="checkbox"/> Suspension |
| <input type="checkbox"/> Temporary Re-appointment | <input type="checkbox"/> Vol. Demotion (Letter Attached) | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Exempt Summer Youth | <input type="checkbox"/> Reassignment & Downward | <input type="checkbox"/> Termination |
| <input type="checkbox"/> Establish Temp Grant | Change in Level | |
| <input type="checkbox"/> Temp Grant Appointment | <input type="checkbox"/> Reassignment | |
| <input type="checkbox"/> Temp Grant Extension | <input type="checkbox"/> Update Position Description | |
| <input type="checkbox"/> Probationary Appointment | <input type="checkbox"/> Reclassification | |
| <input type="checkbox"/> Transfer (Other State Agency) | <input type="checkbox"/> Other: _____ | |

Effective Date _____ Salary \$ _____
Merit System Title/Grade MAN Fiscal Systems - 42

Appropriate Signatures:

Recommended: Abrar Khail 12/17/09
Cost Center Manager / Date

Recommended: _____
Deputy Executive Director / Date

Concurred: Linda H. Mincy 12/18/09
Human Resource Director / Date

Approved: J. R. Foster 12/18/09
Executive Director / Date

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

GENERAL INFORMATION

Position Number: 0 0 0 0 0 4 6 9 5 8 Agency Code: R 6 0 Agency Name: SCSC

Executive / Internal Audit and Review Division / Section / Unit: Columbia/Richland City / County

Vacant Employee Name: County Code: 4 0 Y/N: Y

Senior Consultant Current State Title: F 5 2

Audits Manager II Supervisor State Title: A H 4 3

Source of Funding: State %: 1 0 0 0 0 0 Federal %: 0 0 0 0 0 0 Other %: 0 0 0 0 0 0

REQUESTED ACTION INFORMATION

Reclass Requested Action: Accounting/Fiscal Manager I Requested State Title: A D 2 8

Supervisor's Signature: Khadil Date: 12/11/2009

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

- What are the minimum requirements for the position (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements)? A bachelor's degree in accounting or business administration with fifteen (15) semester hours in accounting related courses or financial management and four (4) years experience as a professional accountant or auditor. Qualifying experience must include at least two (2) years directing in-depth financial reporting responsibilities; or directing a major organizational unit in a complex financial system; or directing a budget planning and monitoring system; or directing an audit program of financial and operational (continued next pg)
- What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license? Considerable knowledge of federal and state regulations concerning program activities within SCSC. Ability to prepare financial reports involving in-depth research and analysis. Ability to exercise judgment and discretion in applying and interpreting policies and procedures. Ability to exercise effective administrative and technical supervision over a staff of professional, technical and clerical employees. Ability to communicate effectively. Designation as a Certified Public Accountant or certified Internal Auditor is required.
- Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion. Under general supervision.
- Indicate additional comments regarding this position (e.g. work environment, physical requirements, overnight travel). Overnight travel as required.

MISCELLANEOUS DATA

Employee Number: _____ Position Data Number: _____

☐ OHR COPY ☐ AGENCY COPY

OFFICE OF HUMAN RESOURCES

Agency Code: _____

Authorized Date: _____

☐ Delete ☐ New Position ☐ Prototype

☐ State Title Changes ☐ Update

Approved State Title: _____

Approved Signature: _____

Date Approved: _____

Minimum Training and Experience:

(continued) system audits. Designation as a Certified Public Accountant or Certified Internal Auditor may substitute for the two (2) years of specified qualifying experience.

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

1. Job Purpose:

Under general supervision; reports to Director of Internal Audit and Review. Assist in the planning and directing of activities of professional auditing staff to ensure independent reviews of Agency accountability throughout the year.

2. Job Functions:

Supervise Accounting and Inventory staff; training staff and conducting inventory management skills.
Perform reviews of reconciliations of various General Ledger Accounts, including Cash; perform quarterly reviews and reconciliations of the UI Trust Fund; review prepared Financial Statements.
Investigate allegations of fraud. Provide organizational review of the Commission for senior management.
Audit Payroll Payoff; Timesheets and New Hire/ Termination.
Audit Fixed Assets and Supply Inventory Verifications.
Assist with resolutions of audited Financial Statements issued by the external auditors.
Conduct reviews of Internal Controls over various areas.
Perform other related duties as required.

Essential/Marginal
(E or M)

Percentage
of Time

20 %

15 %

15 %

15 %

15 %

10 %

10 %

5 %

3. Position's Supervisory Responsibilities:

If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.

STATE TITLE: SPES NUMBER: 1

(1) Procurement Specialist II

(2)

(3)

Number of employees
directly supervised: 1

Total Number Supervised: 1

4. Comments:

5. The above description is an accurate and complete description of this job.

Employee's Signature

Date

Attachment #3

COMMISSIONERS
J. William McLeod
Becky D. Richardson
McKenna Washington, Jr.

EXECUTIVE DIRECTOR
Roosevelt E. Haley
801 74th 2617



Your
onestop
for Workforce Solutions!
www.scs.org

1550 Gadsden Street
Post Office Box 995
Columbia, South Carolina 29202

RECEIVED

OCT 05 2009

October 5, 2009

Richard H. Gilbert, JR., CPA
Deputy State Auditor
Office of the State Auditor
1401 Main Street, Suite 1200
Columbia, SC 29201

STATE AUDITORS OFFICE

Rich
Dear Mr. Gilbert:

We have reviewed the proposal from The Hobbs Group, P.A. for up to an additional 300 hours of service.

We realize that we will be billed for only the actual hours necessary at the rate of \$125.00 per hour. We feel this offer is reasonable and justified.

We are requesting your permission to engage The Hobbs Group, P.A. for these additional hours in order to complete the Audit Requirements for the Agency.

Thank you for your assistance. If additional information is needed please contact me at 737-2584.

Sincerely,

Charles D. Reeves
Charles D. Reeves
Finance Director

CDR/vnb

Enclosure(s)

RECEIVED

OCT 09 2009

DEPT OF FINANCE

State of South Carolina



Office of the State Auditor

1401 MAIN STREET, SUITE 1200
COLUMBIA, S.C. 29201

RICHARD H. GILBERT, JR., CPA
DEPUTY STATE AUDITOR

(803) 253-4100
FAX (803) 343-0722

October 7, 2009

Mr. Charles D. Reeves
Finance Director
South Carolina Employment Security Commission
1550 Gadsden Street
Post Office Box 995
Columbia, South Carolina 29202

Dear Mr. Reeves:

This is to advise you that the Office of the State Auditor approves your request to amend your contract with The Hobbs Group P.A. to perform consulting services for the South Carolina Employment Security Commission. The amendment allows The Hobbs Group P.A. to perform up to 300 additional hours at a rate of \$125 per hour.

This consulting engagement is considered a fixed fee contract. Any increase in the stated fees must have the prior written approval of the State Auditor's Office.

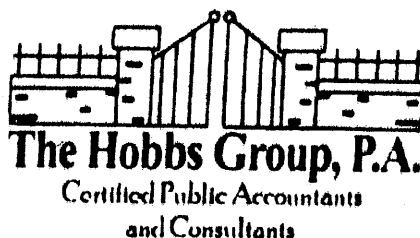
Very truly yours,

A handwritten signature in dark ink, appearing to read "Richard H. Gilbert, Jr.", written over the typed name and title.

Richard H. Gilbert, Jr., CPA
Deputy State Auditor

attachments

Mark T. Hobbs, CPA
Eldora T. Whitcomb, CPA
Malynda M. Grimsley, CPA
Christina R. Kelly, CPA



Jeff Nates, CPA, CISA
Stacy P. Smith, CPA
Christie B. Gilbert, CPA

South Carolina Employment Security Commission
Mr. Charles D. Reeves, Director of Fiscal Affairs
1550 Gadsden Street
Columbia, South Carolina 29202

Doug,

Per our discussion this letter is to confirm our understanding of the additional of services we are to provide the Fund and the Commission. We will assist both the Fund and the Commission in the preparation of their trial balances, including adjustments and reconciliations, to be provided to the auditors. Once the trial balances are prepared we will then perform the services outlined in our original engagement, which include the reconciliation of the trial balance to prior year net assets and compilation of the financial statements. We will perform the additional services at an hourly rate of \$125 at actual hours incurred. We expect that the additional services could take up to 300 hours to complete. We will expect to meet periodically to discuss the status of the services, including hours spent and estimated completion. If you agree with the terms of our engagement as described in this letter, please sign the enclosed copy and return it to my office.

Very Truly Yours,
The Hobbs Group, P.A.

By: Christina Kelly
Christina R. Kelly, CPA
Shareholder

Response:

This letter correctly sets forth the understanding of the South Carolina Employment Security Commission.

Signature: Charles D. Reeves


Title: Finance Director

Attachment #4

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
Interoffice Communication

DATE: August 20, 2009

TO: Mr. H. Allen Larson, Deputy Executive Director
Division of Unemployment Insurance

FROM: Susan H. Mincey 
Human Resource Director

SUBJECT: Position Description

The position description submitted to reclassify the vacant Administrative Assistant, slot 0016, pay band 4D, to an Accounting/Fiscal Manager I, slot 0001, pay band 7C in the Control Accounts Department has been approved effective August 10, 2009. Attached is an updated position description for your records.

Attachments:

CC: Department of Finance

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

GENERAL INFORMATION		OHR COPY 05/10/2009		AGENCY COPY	
Position Number: 0000046562 Agency Code: R60 Division / Section / Unit: UI Administration/Control Accounts City / County: Columbia/Richland Employee Name: Dex Grant III Administrative Assistant Current State Title: Program Manager II Supervisor State Title: Accounting/Fiscal Hours Per Week: 37.5 Base Hours: 1950		SCSSC Agency Name County Code: 40 City / County: Columbia/Richland County Code: 40 Y/N: Y Is position in Control Office: Y		Agency Code: R60 Alphanumeric Code: 000 State: SC Authorized Date: 08/17/09 Date Approved: 8-17-09	
SOURCES OF FUNDING State %: 100 Federal %: 0 Other %: 0		Delegation: <input type="checkbox"/> Delegate <input checked="" type="checkbox"/> New Position <input type="checkbox"/> Update State Title Changes: <input type="checkbox"/> Update		Approved State Title: Accounting/Fiscal Approved Signature: [Signature] Date Approved: 8-17-09	
REQUESTED ACTION INFORMATION Reclassification Requested Action: [Signature] Supervisor's Signature: [Signature] Date: 8/27/09		Accounting/Fiscal Manager I Requested State Title: Accounting/Fiscal Alphanumeric Code: AD28		FLSA Designation: E	
THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR					
1. What are the minimum requirements for the position? (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements.) 2. What knowledge, skills, and abilities are needed by an employee upon entry in this job including any special certification or license? 3. Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion. 4. Indicate additional comments regarding this position (e.g. work environment, physical requirements, overnight travel). This position may require public speaking and overnight travel as required. Overtime as verified class.					
MISCELLANEOUS DATA Employee Number: [] Position Dept. Number: []					

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

1. Job Purpose:

To direct and oversee all functions of the Control Accounts Department within the Unemployment Insurance Division of the South Carolina Employment Security Commission.

2. Job Functions:

Supervises the maintenance of the Federal Accounting System (FARS) for the UI Division of the SCESC, as well as the UI Division's General Ledger and Cash Control Accounting Systems. Directs the preparation of monthly and quarterly financial statements as needed for state and/or federal reports. Prepares special financial analysis and ad hoc reports on behalf of management. Prepares General Ledger closing packages.

Directs or prepares the UI Division's financial statements to meet Generally Accepted Accounting Principles (GAAP). These include but are not limited to Statement of Change in Financial Position, Statement of Revenue and Expenditure, Income Statement, Balance Sheet, Trial Balance. Prepares financial statements using cash and/or accrual basis accounting principles.

Supervises the daily activities of the accounting staff. Provides training and direction in the performance of the accounting functions. Evaluates performance of accounting staff and conduct periodic reviews, including EFMS of the accounting staff.

Manages the drawdown and disbursement of UI benefit payments.

Ensures the accounting ledgers are balanced and reconciled in a timely manner and in accordance with Generally Accepted Accounting Principles (GAAP).

Coordinates audits for the UI Division between UI and Finance Department personnel.

Consults with state, federal, and bank officials concerning financial reporting and changes in policies.

Manages or supervises the implementation or alterations of accounting systems to comply with legislative or programmatic changes. Develops and implements accounting policies and procedures.

Performs related duties as needed.

Functional Marginal (E or M)	Percentage of Time
E	20%
E	20%
E	20%
E	10%
E	10%
E	5%
E	5%
E	5%
M	5%

3. Position's Supervisory Responsibilities:

If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.

STATE TITLE	NUMBER	Number of employees directly supervised: \$
(1) Accountant Fiscal Analyst II	1	
(2) Accountant Fiscal Analyst I	3	
(3) Fiscal Technician	4	
Total Number Supervised: \$		

4. Comments:

5. The above description is an accurate and complete description of this job.

Employee's Signature

Date



PERSONNEL ADVICE AND INFORMATION

ADVICE DATE 09/24/09		PERSONNEL ACTION NO. 09240006	
SOCIAL SECURITY NUMBER		NAME OF EMPLOYEE	
		GRANT, III DON D	
NATURE OF ACTION		ACTION CODE	EFFECTIVE DATE
PROBATIONARY APPOINTMENT		011	09/23/09
DESIGNATION	PREVIOUS	CURRENT	
DIVISION		UI	
COST CENTER		07134 CONTROL ACCOUNTS SEC	
PAY BAND/LEVEL	/	07/C	
CLASSIFICATION		AD28 ACCT/FISCAL MGR I	
TOTAL SALARY		\$	
S.C. POSITION NO.		0046562	
PAIS SLOT NO.		00001	
BASE SALARY	MERIT ABOVE MAXIMUM	ADDITIONAL EARNINGS	PERFORMANCE REVIEW DATE
\$52,000.00			09/23/10
1ST LONGEVITY	2nd LONGEVITY	3rd LONGEVITY	FLSA
			EXEMPT
REMARKS: THIS APPOINTMENT WAS APPROVED BY THE EXECUTIVE DIRECTOR SUBJECT TO THE SATISFACTORY COMPLETION OF A TWELVE MONTH PROBATIONARY PERIOD.			
RECOMMENDED: <div style="display: flex; justify-content: space-between;"> <div> DEPUTY EXEC. DIRECTOR 09/23/09 </div> <div> HUMAN RESOURCE DIRECTOR 09/23/09 </div> </div>			
APPROVED: <div style="display: flex; justify-content: space-between;"> <div> EXECUTIVE DIRECTOR 09/23/09 </div> <div> EMPLOYEE DATE </div> </div>			

EMPLOYEE RETURN COPY

Attachment #5

SOUTH CAROLINA EMPLOYMENT SECURITY COMMISSION
Recommendation Form



Employee/Applicant and Position Data:

Name Vacant Cost Center Name Dept. of Finance Cost Center No. 5310
Social Security No. _____ Funding Source 9998
Position Title Accountant/Fiscal Manager I
Hire Above Minimum \$unknown Slot Number _____
Pay Band/Level 7C For Pay Band 5A and above Name _____
Name of Former Occupant _____ Name _____
Rank in Office Manager ☒ Asst. Manager ☐ Unit Supv. ☐ Other _____

Position Type:

FTE ☒ Temporary Grant ☐ Temporary ☐ Part-time ☐

Complete Unless FTE Was Checked Above:

Duration: Temporary Grant End Date _____ Hourly Paid – 12 Months ☐ Other _____

Reason For Request:

Request to ~~establish a position~~ for an assistant manager in cc# 5310 as a 7C accountant/fiscal manager
I. A position description is attached. Reclass vacant AA75 Admin Asst. to a
AD28 Acct. Fiscal Mgr. I. Transfer from 5500 to 5310

For Human Resources Only:

- | | | |
|--|--|---|
| <input type="checkbox"/> Temporary Appointment | <input type="checkbox"/> Promotion | <input type="checkbox"/> Transfer of Slot |
| <input type="checkbox"/> Temporary Extension | <input type="checkbox"/> Additional Duties | <input type="checkbox"/> Suspension |
| <input type="checkbox"/> Temporary Re-appointment | <input type="checkbox"/> Vol. Demotion (Letter Attached) | <input type="checkbox"/> Unauthorized Absence |
| <input type="checkbox"/> Exempt Summer Youth | <input type="checkbox"/> Reassignment & Downward | <input type="checkbox"/> Termination |
| <input type="checkbox"/> Establish Temp Grant | Change in Level | |
| <input type="checkbox"/> Temp Grant Appointment | <input type="checkbox"/> Reassignment | |
| <input type="checkbox"/> Temp Grant Extension | <input type="checkbox"/> Update Position Description | |
| <input type="checkbox"/> Probationary Appointment | <input type="checkbox"/> Reclassification | |
| <input type="checkbox"/> Transfer (Other State Agency) | <input type="checkbox"/> Other: _____ | |

Salary \$ _____
Effective Date _____ Merit System Title/Grade _____

Appropriate Signatures:

Recommended: Charles D. Lewis 12-30-09 Recommended: Jim M. Harty 12-30-09
Cost Center Manager / Date Deputy Executive Director / Date
Concurred: Iman H. Mady 12/30/09 Approved: S. L. Foster 12/31/09
Human Resource Director / Date Executive Director / Date

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

GENERAL INFORMATION

☐ OHR COPY ☐ AGENCY COPY

Position Number 0 0 0 0 4 6 4 1 5 Agency Code R 6 0 Agency Name S C E S C

Administration & Support/Dept. of Finance Division / Section / Unit Columbia/Richland City / County

Vacant Employee Name County Code 4 0 0 Y Y/N Is position in Central Office?

Administrative Assistant Current State Title F 5 2 Accountant/Fiscal Manager II A A 7 4 0 0 3 2 4 D Band Slot

Supervisor State Title Accountant/Fiscal Manager I A D 2 8 Alphanumeric Code

SOURCE OF FUNDING

State % 1 0 0 0 0 0 Federal % Other %

REQUESTED ACTION INFORMATION

Reclass Slot Requested Action Charles D. Lawrence 12-30-89 Date

Supervisor's Signature Other Required Signature

Approved State Title Approved Signature Date Approved

THE FOLLOWING SECTION OF THE POSITION DESCRIPTION IS TO BE COMPLETED BY THE SUPERVISOR

1. What are the minimum requirements for the position (Minimum requirements must at least meet the state minimum requirements for classified classes but may include additional requirements.)? A Bachelor Degree in accounting or business administration with a minimum of fifteen (15) semester hours in accounting related courses or financial management and four (4) years experience as a professional accountant or auditor. Qualifying experience must include at least two (2) years directing in-depth financial (see attachment)
2. What knowledge, skills, and abilities are needed by an employee upon entry to this job including any special certification or license? Extensive knowledge of the principles, theories, and practices of accounting, auditing, budgeting and financial management. Extensive knowledge of governmental finance. Designation as a Certified Public Accountant or Certified Internal Auditor is required. Ability to organize and supervise a general financial system. Ability to supervise professional and clerical employees. Ability to communicate effectively.
3. Describe the guidelines and supervision an employee receives to do this job, including the employee's independence and discretion.

Limited supervision

4. Indicate additional comments regarding this position (e.g. work environment, physical requirements, overnight travel). Some overnight travel required.

MISCELLANEOUS DATA

Employee Number

Position Dept. Number

(Continued from page 1)

reporting responsibilities; or directing a major organizational unit in a complex financial system; or directing a budget planning and monitoring system; or directing an audit program of financial and operation system audits. Designation as a Certified Public Accountant or Certified Internal Auditor is required and may substitute for two (2) years of specified qualifying experience.

STATE OF SOUTH CAROLINA POSITION DESCRIPTION

<p>1. <u>Job Purpose:</u> This position will serve as the Assistant Director of Finance. Under limited supervision, manages and supervises the complex accounting, budgeting and financial reporting systems within the Employment Security Commission. These systems include the South Carolina Enterprise Information System (SCEIS); Financial Accounting and Reporting Systems (FARS); and Budgeting Systems. Responsible for assuring the agency is in compliance with federal and state financial rules and regulations; and recommends and implements sound fiscal policies.</p>		<p>Essential/ Marginal (E or M)</p>	<p>Percentage of Time</p>															
<p>2. <u>Job Functions:</u> Organize and Supervise the South Carolina Enterprise Information System (SCEIS) and the Financial Accounting and Reporting System (FARS). This includes the responsibility for all accounting procedures and transactions and the overall fiscal policies and controls. Also, coordinator of the Generally Accepted Accounting Principles (GAAP) with the Comptroller General's Office and State Auditor's Office; coordinates the administrative portion of the annual audit with the State Auditor's office; Responsible for the compilation and certification of the Agency's Trial Balances and Financial Statements.</p> <p>Organize and supervise Agency Budgeting System and Agency Financial Accounting and Reporting System. This includes responsibility for all agency budgets, fiscal controls and policies for all programs.</p> <p>Manage and supervise staff involved in development, supervision and operation of sound financial management, budgeting, accounting and financial reporting systems. This includes the receipt and disbursement of all program funds received, in accordance with prescribed federal, state, and SC Employment Security Commission requirements.</p> <p>Direct the design of complex budgeting, accounting and financial reporting systems to accommodate legislative and programmatic changes. Analyze and interpret financial records to provide management with financial and analytical data for decision making.</p> <p>Performs other related duties as assigned.</p>		<p>E</p> <p>E</p> <p>E</p> <p>E</p> <p>M</p>	<p>30%</p> <p>20%</p> <p>20%</p> <p>25%</p> <p>5%</p>															
<p>3. <u>Position's Supervisory Responsibilities:</u> <i>If this position includes supervisory responsibilities, please indicate the state title and number of positions of the three highest subordinates.</i></p> <table border="1"> <thead> <tr> <th></th> <th>STATE TITLE</th> <th>NUMBER</th> </tr> </thead> <tbody> <tr> <td>(1)</td> <td>Accountant/Fiscal Analyst III</td> <td>7</td> </tr> <tr> <td>(2)</td> <td>Accountant/Fiscal Analyst III</td> <td>6</td> </tr> <tr> <td>(3)</td> <td>Accountant/Fiscal Analyst III</td> <td>7</td> </tr> <tr> <td colspan="2">Total Number Supervised:</td> <td>24</td> </tr> </tbody> </table>					STATE TITLE	NUMBER	(1)	Accountant/Fiscal Analyst III	7	(2)	Accountant/Fiscal Analyst III	6	(3)	Accountant/Fiscal Analyst III	7	Total Number Supervised:		24
	STATE TITLE	NUMBER																
(1)	Accountant/Fiscal Analyst III	7																
(2)	Accountant/Fiscal Analyst III	6																
(3)	Accountant/Fiscal Analyst III	7																
Total Number Supervised:		24																
<p>4. <u>Comments:</u></p>																		
<p>5. The above description is an accurate and complete description of this job.</p>																		
<p>Employee's Signature</p>			<p>Date</p>															

Attachment #6



COMMUTING MILEAGE POLICY

NO DISCRIMINATION

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE SCESC. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS.

THE SCESC RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

It is the policy of the SCESC to recruit, hire, train, and promote employees without discrimination because of race, color, sex, national origin, age, religion or disability. This policy is to apply to all levels and phases of personnel within the Agency, including but not limited to recruiting, hiring, compensation, benefits, promotions, transfers, layoffs, recalls from layoffs, and educational, social, or recreational programs. If you believe that you have been discriminated against in violation of the law, you should immediately contact the Agency's Human Resources Director at (803) 737-2558.

1. Policy

Whereas the position of Executive Director warrants assignment of an agency owned vehicle, this vehicle may be used by the Executive Director to commute between home and work. When using an agency owned vehicle to commute, the Executive Director shall be required to reimburse the state for commuting miles. The Executive Director shall maintain an approved log to establish commuting versus business related mileage and submit said log monthly to the motor pool manager along with appropriate reimbursement.

Attachment #7

State Outcomes on the Labor Exchange Program Measures Over the Previous 12 Months Compared to National and Regional Results

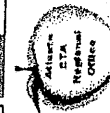
Second Quarter of PY 2008

Participation Summary		Nation	Atlanta Region	Alabama	Florida	Georgia	Kentucky	Mississippi	North Carolina	South Carolina	Tennessee
Total Participants		13,613,465	4,274,245	350,281	1,182,385	631,955	251,284	315,788	894,858	424,330	443,389
Eligible Veterans		4,905,605	1,871,557	225,333	482,369	378,142	141,812	72,459	293,697	244,613	55,132
Disabled Veterans		435,609	152,159	6,041	34,539	5,463	5,539	1,104	78,886	14,850	7,932
Military and Seasonal Farmworkers		112,570	46,156	124	26,833	3,519	46	77	13,008	2,547	5
Dislocated Workers		1,007,814	272,492	20,773	40,708	81,904	2,538	84,607	5,138	26,172	10,652
Veterans Eligible Parents and Family		1,113,423	383,973	23,178	94,817	61,055	24,749	12,494	97,715	33,441	36,784
Recently Separated Veterans (3 years)		142,012	49,763	2,998	12,839	10,280	4,451	3,517	6,651	4,525	4,521

Exceeded Negotiated Level
Negotiated Level - 80% of Negotiated Level
Below 80% of Negotiated Level

Performance Outcomes		Nation	Atlanta Region	Alabama	Florida	Georgia	Kentucky	Mississippi	North Carolina	South Carolina	Tennessee
Entered Employment Rate		82.0	83.5	86.1	82.9	84.6	83.1	83.1	84.6	83.1	84.6
Eligible Veterans		82.0	83.5	86.1	82.9	84.6	83.1	83.1	84.6	83.1	84.6
Disabled Veterans		50.2	50.2	52.4	52.4	52.4	52.4	52.4	52.4	52.4	52.4
Military and Seasonal Farmworkers		58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4
Dislocated Workers		82.1	82.1	82.1	82.1	82.1	82.1	82.1	82.1	82.1	82.1
Veterans and Eligible Parents		82.5	82.5	82.5	82.5	82.5	82.5	82.5	82.5	82.5	82.5
Recently Separated Veterans		86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1
Employment Retention Rate		78.0	80.1	78.4	78.6	81.3	81.3	81.3	81.3	81.3	81.3
Eligible Veterans		82.3	82.3	82.3	82.3	82.3	82.3	82.3	82.3	82.3	82.3
Military and Seasonal Farmworkers		58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4	58.4
Veterans and Eligible Parents		81.0	81.0	81.0	81.0	81.0	81.0	81.0	81.0	81.0	81.0
Recently Separated Veterans		71.8	71.8	71.8	71.8	71.8	71.8	71.8	71.8	71.8	71.8
Avg. Six Month Earnings		\$11,980	\$11,280	\$11,716	\$11,485	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471
Eligible Veterans		\$11,980	\$11,280	\$11,716	\$11,485	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471
Veterans and Eligible Parents		\$11,980	\$11,280	\$11,716	\$11,485	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471
Recently Separated Veterans		\$11,980	\$11,280	\$11,716	\$11,485	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471	\$11,471

* PY 2008 GPRA goals published in ETA's strategic plan.
* Based on state and territory reporting as of December 31, 2008. Pennsylvania and Texas are not included as they implemented WISPA-plus reporting systems.



Prepared: 3-Apr-09

State Outcomes on the Labor Exchange Program Measures Over the Previous 12 Months

Compared to National and Regional Results

Third Quarter of PY 2008

Updated

Performance Summary	Alabama	Florida	Kentucky	Mississippi	North Carolina	South Carolina	Louisiana
Total Participants	15,124,591	1,225,905	253,136	308,330	703,587	485,386	499,525
Employed Participants	6,238,981	532,195	144,992	75,049	315,418	305,337	79,477
Unemployed Participants	459,853	36,592	6,241	988	77,867	14,317	7,865
Employed Participants	120,383	123	23	98	12,240	2,476	5
Unemployed Participants	1,461,239	48,803	2,799	85,401	8,248	33,015	11,813
Participants Employed Participants	1,185,922	98,252	24,486	12,210	100,010	34,485	39,710
Participants Unemployed Participants	135,478	11,181	4,143	3,395	5,415	4,287	4,327

Performance Summary	Alabama	Florida	Kentucky	Mississippi	North Carolina	South Carolina	Louisiana
Total Participants	15,124,591	1,225,905	253,136	308,330	703,587	485,386	499,525
Employed Participants	6,238,981	532,195	144,992	75,049	315,418	305,337	79,477
Unemployed Participants	459,853	36,592	6,241	988	77,867	14,317	7,865
Employed Participants	120,383	123	23	98	12,240	2,476	5
Unemployed Participants	1,461,239	48,803	2,799	85,401	8,248	33,015	11,813
Participants Employed Participants	1,185,922	98,252	24,486	12,210	100,010	34,485	39,710
Participants Unemployed Participants	135,478	11,181	4,143	3,395	5,415	4,287	4,327

* PY 2008 OIRA, goals published in ETA's strategic plan.
 † Based on states and territories reporting as of December 31, 2008. Performance and Totals are not included as they represent VSPR, the reporting system.

Fourth Quarter of PY 2008

[illegible]

^a Based on states and territories reporting as of December 31, 2008. Pennsylvania and Texas are not included as they implemented WSR-like reporting systems.

^a Based on states and territories reporting as of December 31, 2005. Pennsylvania and Texas are not included as they implemented WSP/Life reporting systems.



State Outcomes on the Labor Exchange Program Measures Over the Previous 12 Months Compared to National and Regional Results

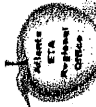
First Quarter of PY 2009

Participation Summary																					
Total Participants		Nation ¹	Atlanta Region	Alabama	Florida	Georgia	Kentucky	Mississippi	North Carolina	South Carolina	Tennessee										
		16,475,002	4,846,550	421,391	1,559,022	726,131	278,939		723,222	572,460	667,385										
Eligible UI Claimants		7,053,915	2,869,044	310,610	923,844	501,495	176,987		379,282	428,989	147,827										
Disabled Individuals		483,133	156,284	6,664	36,965	8,938	8,415		74,441	13,283	7,588										
Migrant and Seasonal Farmworkers		122,174	46,783	154	29,395	3,004	14		10,900	3,368	8										
Dislocated Workers		1,323,047	273,271	29,012	85,357	93,650	4,170		7,308	40,844	12,930										
Veterans, Eligible Persons, and ISAs		1,265,570	403,850	24,798	115,747	68,312	27,684		89,513	37,649	40,148										
Recently Separated Veterans (3 years)		134,086	42,330	2,586	11,344	10,135	4,628		5,924	3,885	3,828										
Exceeded Negotiated Level																					
Negotiated Level - 80% of Negotiated Level																					
Below 80% of Negotiated Level																					
Performance Outcomes																					
Entered Employment Rate		GPRA Actual Goals	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	Actual Perf.	Neg. Level*	
Eligible UI Claimants		81.0	133.1	64.0	54.5	86.2	57.3	58.0	53.9	60.0	54.6	89.0	62.1	61.0	0.0	90.0	49.3	87.5	56.0	68.0	55.3
Disabled Individuals			56.1		54.0		57.8		51.2		52.8		61.5		0.0		52.2		56.4		52.8
Migrant and Seasonal Farmworkers			44.0		45.8		44.0		37.7		44.0		47.7		0.0		48.4		47.0		44.5
Dislocated Workers			90.9		58.9		54.5		72.9		68.5		47.4		0.0		16.5		75.5		0.0
Veterans and Eligible Persons			51.3		59.0		61.7		59.7		54.8		72.9		0.0		51.6		54.3		48.3
Recently Separated Veterans			55.1		54.4		82.3		54.2		53.7		58.1		0.0		45.2		61.1		58.2
Employment Retention Rate			59.1		59.8		85.3		61.7		52.6		54.5		0.0		41.8		78.7		62.7
Eligible UI Claimants		78.0	77.9	78.2	76.6	83.1	79.6	76.0	77.1	78.0	76.6	82.0	78.6	60.0	0.0	80.0	72.3	82.3	79.2	82.0	76.0
Disabled Individuals			78.7		77.8		79.4		78.0		79.4		80.1		0.0		72.3		78.5		78.0
Migrant and Seasonal Farmworkers			73.5		71.3		68.4		73.1		71.8		74.4		0.0		53.0		79.9		95.7
Veterans and Eligible Persons			78.8		78.7		82.3		78.8		76.2		79.1		0.0		75.0		82.4		80.3
Recently Separated Veterans			79.2		79.7		85.3		80.0		76.7		75.8		0.0		70.7		86.3		81.7
Avg. Six Month Earnings		\$11,870	Not Available	\$10,872	\$0	\$11,420	\$11,437	\$12,000	\$12,371	\$13,000	\$15,034	\$11,400	\$11,949	\$7,656	\$0	\$11,000	\$10,383	\$11,000	\$10,926	\$10,900	\$10,813
Eligible UI Claimants			Not Available		\$0		\$10,838		\$13,807		\$15,694		\$12,188		\$0		\$9,984		\$10,924		\$10,801
Veterans and Eligible Persons			Not Available		\$0		\$14,746		\$14,777		\$18,701		\$14,020		\$0		\$13,930		\$14,446		\$13,792
Recently Separated Veterans			Not Available		\$0		\$13,987		\$15,005		\$19,750		\$13,310		\$0		\$14,001		\$14,344		\$13,972

¹ PY 2009 GPRA goals published in EIA's strategic plan.

² Based on states and territories reporting as of October 1, 2008 to September 30, 2009. Reports for PA and TX were not available.

³ Mississippi experienced difficulties in using DRVS. No data this quarter.



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